

United States
Circuit Court of Appeals

For the Ninth Circuit.

HILLCONE STEAMSHIP COMPANY, a corporation,
SANTA CRUZ OIL COMPANY, a corporation and
ASSOCIATED INDEMNITY CORPORATION, a corporation,

Appellants,

vs.

ALBERT V. STEFFEN,

Appellee.

Apostles on Appeal

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

MAR 3 - 1943

PAUL P. O'BRIEN,
CLERK

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For the Ninth Circuit.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF PROCTORS:

For Appellants:

S. S. TIPTON and
A. G. RITTER, Esqs.
915 Black Bldg.
Los Angeles, Calif.

For Appellee:

WM. P. LORD and
FONTANA & GOLDSTONE, Esqs.
919 Union Bank Bldg.
Los Angeles, Calif. [1*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

In the District Court of the United States for the
Southern District of California Central, Division.

No. 1790-H

ALBERT V. STEFFEN

Libelant

vs

HILLCONE STEAMSHIP COMPANY, a corporation;
SANTA CRUZ OIL COMPANY, a corporation;
ASSOCIATED INDEMNITY CORPORATION, a corporation, and
WARREN A. PILLSBURY, Deputy Commissioner,
13th Compensation District, U. S. Employees
Compensation Commission,

Respondents

LIBEL IN PERSONAM

(Under the Longshoremen's and
Harbor Workers' Compensation Act)

To the Honorable the Judges of the United States
District Court for the Southern District of
California, Southern Division; In Admiralty
Sitting:

The libel and complaint of Albert V. Steffen, libelant, against Hillcone Steamship Company, a corporation, owner of the Steamship "Prentiss" and Santa Cruz Oil Company, a corporation, charterer, and Associated Indemnity Corporation, a corporation, insurance carrier, and Warren A. Pillsbury,

Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, Respondents, in a cause of injunctive relief under Section 21 of the Longshoremen's and Harbor Workers' Compensation Act, to recover for rights arising under said Act by an employee, respectfully shows upon information:

ARTICLE I.

That the respondent Santa Cruz Oil Company is a corporation, organized under the laws of the State of California, and among other things is engaged in the ownership of a fishing fleet navigating and fishing the waters of the Pacific Ocean, and was owner pro hac vice of the Steamship "Prentiss" hereinafter mentioned.

ARTICLE II.

That during all the times herein mentioned the respondent Hillcone Steamship Company was and now is a corporation, and was the owner of the Steamship "Prentiss" which during the month of February, 1937, was docked at the dock of the Santa Cruz Oil Company, and said vessel at said time was laid up for purposes of which [2] libelant is not advised.

ARTICLE III.

That during the month of February, 1937, libelant was an able-bodied man, and was in the employ of the respondents Santa Cruz Oil Company and the Hillcone Steamship Company, and was directed by the agents of said companies to perform the duties

of a watchman aboard said steamship "Prentiss" and during said month, the exact date whereof libelant is not able to specifically state, libelant was in the performance of his said duties.

ARTICLE IV.

That during all the times herein mentioned the respondent Associated Indemnity Corporation was and now is an insurance corporation, engaged in the business of writing insurance policies covering employees under the terms of the Longshoremen's and Harbor Workers' Compensation Act, and prior to said month of February, 1937, said respondent had, in consideration of a premium paid by the other respondents, entered into a contract to insure all employees who sustained personal injuries arising out of and in the course of their employment who were employed on the Steamship "Prentiss."

ARTICLE V.

That during the latter part of February, 1937, the respondent employers had provided a means of ingress and egress to the said steamship "Prentiss" from the dock by placing one end of a ladder on a pontoon attached to said steamship and the other end extending to the deck of said steamship, and after libelant had completed his day's work libelant commenced descending said ladder and slipped on said ladder, thereby causing a forcible wrenching of libelant's back and spine, and causing libelant continued disability ever since said day, to and including the filing of this complaint.

ARTICLE VI.

That at the time of said injury the respondents and each of them had notice of said injury and were given notice thereof, [3] and a claim was made to said employer and to the Deputy Commissioner that libellant had sustained an accidental injury arising out of and in the course of his employment.

ARTICLE VII.

That thereafter such proceedings were had in connection with said claim, before the Deputy Commissioner, that on the 22d day of August, 1941, the Deputy Commissioner made an order rejecting said claim which, omitting title, is in words and figures as follows:

“COMPENSATION ORDER

REJECTION OF CLAIM

CASE No. 2739-1

CLAIM No. 1545

Such investigation in respect to the above entitled claim having been made as is considered necessary and a hearing having been duly held in conformity with law, the Deputy Commissioner makes the following:

FINDINGS OF FACT

That during the week of February, 1937, the claimant above named was in the employ of the employer above named, Santa Cruz Oil Company, at Long Beach, in the State of California, in the 13th Compensation District, established under the provisions of the Longshoremen's and

Harbor Workers' Compensation Act, and that the liability of the employer for compensation under said Act was insured by the Associated Indemnity Corporation;

That claimant contends that about said time he sustained injuries to his back by the slipping of a ladder extending from a pontoon to said ship, while he was leaving said ship in the course of his work;

That at said time claimant was employed as a watchman or caretaker on board the S. S. "Prentiss" and had been so employed for more than two years. That said vessel did not go to sea or engage in commerce or navigation at any time during said period. That there was no crew on board during said time. That said vessel had been purchased by the employer with the intention of reconditioning and remodeling her for service in connection with certain fish reduction plants but that the employer eventually sold said vessel without putting her into use in such or any capacity as a vessel. That at the time of said injury said vessel was indefinitely laid up. That claimant's employment as said watchman and caretaker was not maritime in character.

Upon the foregoing facts it is ordered by the Deputy Commissioner that the claim be and it is hereby Rejected for the following reasons:

That claimant's services at the time of his alleged injury [4] was not maritime in character, and claimant does not come within the provisions of

the Longshoremen's and Harbor Workers' Compensation Act.

Given under my hand at San Francisco, California, this 22d day of August, 1941.

WARREN H. PILLSBURY

Deputy Commissioner

13th District

(omitting proof of service)''

That said rejection order was given after several hearings and investigations made by said Deputy Commissioner.

ARTICLE VIII.

That said compensation order is not in accordance with law in the following particulars:

(a) that the Deputy Commissioner made no findings as to the amount of libelant's average earnings for one year immediately preceding the month of February, 1937, and computed the rate of pay that libelant should be entitled to receive and be paid as compensation under said Longshoremen's and Harbor Workers' Compensation Act on account of injuries sustained by libelant during the month of February, 1937;

(b) that the Deputy Commissioner should have found that libelant's work and the service in which libelant was engaged was of a maritime nature and fell within the terms of the Longshoremen's and Harbor Workers' Compensation Act; that all the evidence adduced shows that libelant was injured while leaving the vessel; that said vessel was afloat in navigable waters and was to be subsequently used

by respondents steamship and oil corporations in the taking and reduction of fish from the waters of the Pacific Ocean, and that the hazards of accidental injuries could not be validly covered by state law; that the entire evidence showed that the Steamship "Prentiss" was not a new vessel nor was the vessel capable of being navigated and used and operated as a merchant vessel; said vessel was moored or anchored for the purpose of making certain repairs that were desirable. [5]

ARTICLE IX.

That all of said proceedings before the Deputy Commissioner are contained in a file of the Deputy Commissioner under Claim No. 1545, Case No. 2739-1, together with the testimony of all witnesses taken before the said Deputy Commissioner in connection with libellant's said accident.

ARTICLE X.

That all the evidence taken before the Deputy Commissioner conclusively shows that libellant's claim under said Compensation Act was one of a maritime nature, arising out of and in the course of libellant's employment.

ARTICLE XI.

That the Deputy Commissioner should be required to file with the clerk of this court, at a time to be fixed by the court, a certified copy of all proceedings had before him, together with all exhibits, transcripts of testimony, letters and documents of every nature and description received by said Deputy Commissioner in consideration of said claim.

ARTICLE XII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

ARTICLE XIII.

That libelant's address is U. S. Marine Hospital San Francisco, Calif.

Wherefore libelant prays that a citation in due form of law, according to the course of this Honorable Court, in causes of admiralty and maritime jurisdiction, under the terms of the Longshoremen's and Harbor Workers' Compensation Act, may issue against the respondents Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, Associated Indemnity Corporation, a corporation, and Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, [6] citing him and said corporations to appear and answer all and singular the matters aforesaid, and that said Warren H. Pillsbury be required, and that said citation and monition require, in his said answer to file with the clerk of this court the original and/or a true and correct transcript of all proceedings had before him in connection with the claim of one Albert V. Steffen, libelant herein, to recover and be paid compensation under the provisions of the said Longshoremen's and Harbor Workers' Compensation Act, together with all exhibits introduced at the hearings had upon said claim, and together with all letters, writings and documents of every nature and de-

scription, and that this Honorable Court, after due consideration thereof, may be pleased to decree to the libelant that the said Deputy Commissioner erred in respect to finding that libelant at the time of his said injury was not engaged in a work or service of a maritime character, and was not subject to the Longshoremen's and Harbor Workers' Compensation Act, and erred in rejecting said claim, and that the court will review under the terms of said Act all proceedings had before said Deputy Commissioner, and enter a decree herein in accordance with law, including the amount of compensation payable to libelant, if the same can be determined from said record, and if the same cannot be determined from said record, then that the cause be remanded to the Deputy Commissioner to fix said compensation, and if necessary, to take additional testimony in relation thereto, and that said Deputy Commissioner may also take additional testimony in connection with libelant's claim, if the same becomes necessary, and that libelant may have such other and further relief as to the court may seem meet and just, including libelant's costs and disbursements incurred herein, together with attorney fees to be fixed by the court in connection with the maintenance of this proceeding.

WILLIAM P. LORD and

FONTANA & GOLDSTONE

By A. A. GOLDSTONE

Proctor for Libelant.

[Verified]

[Endorsed]: Filed Sept. 19, 1941. [7]

[Title of District Court and Cause.]

ANSWER TO LIBEL IN PERSONAM

(Under the Longshoremen's and
Harbor Workers' Compensation Act)

To the Honorable the Judges of the United States
District Court for the Southern District of Cali-
fornia, Southern Division; In Admiralty Sit-
ting:

Comes now the respondents, Hillcone Steamship
Company, a corporation, Santa Cruz Oil Company,
a corporation, and Associated Indemnity Corpora-
tion, a corporation, and by way of answer to the
Libel In Personam filed herein admit, deny and al-
lege:

ARTICLE I.

By way of answer to Article I these respondents
admit all of said article.

ARTICLE II.

In answer to Article II these respondents deny
that the Hillcone Steamship Company was the
owner of the Steamship "Prentiss".

These respondents admit that during the month
of February, 1937, and at all other times, said ves-
sel was docked and affirmatively state that said ves-
sel was at all times laid up and out of service per-
manently.

ARTICLE III.

By way of answer to Article III these answering
respondents deny generally and specifically each and

every allegation therein contained and [8] every part and portion thereof.

ARTICLE IV.

By way of answer to Article IV these respondents admit the allegations contained in Article IV.

ARTICLE V.

In answer to Article V these answering respondents deny generally and specifically each and every allegation therein contained and every part and portion thereof.

ARTICLE VI.

In answer to Article VI these answering respondents admit that a claim was made by said libelant to the Deputy Commissioner that said libelant had sustained an accidental injury arising out of and occurring in the course of his employment, and as to the rest and remainder of said article these answering respondents deny generally and specifically each and every allegation therein contained and every part and portion thereof.

ARTICLE VII.

In answer to Article VII these answering respondents admit all of the allegations contained in Article VII.

ARTICLE VIII.

In answer to Article VIII these answering respondents deny that said compensation order made as alleged by Deputy Commissioner is not in accordance with law.

And further deny that the Deputy Commissioner should have found that libelant's work and the services in which libelant was engaged was of a maritime nature and fell within the terms of the Longshoremen's and Harbor Workers' Compensation Act; and deny that the evidence showing that libelant was injured while leaving the vessel; and deny that said vessel was afloat and in navigable waters and was to be subsequently used by respondents steamship and oil corporation in the taking and reduction of fish from the waters of the Pacific Ocean; and deny that the hazards of the accidental injuries could not be validly covered by state law; deny that said vessel was moored [9] or anchored for the purpose of making certain repairs other than being fitted for use in a non-maritime enterprise.

ARTICLE IX.

These answering respondents admit the allegations contained in Article IX.

ARTICLE X.

In answer to Article X these answering respondents deny generally and specifically each and every allegation contained therein and every part and portion thereof.

ARTICLE XI.

These answering respondents admit the allegations contained in Article XI.

ARTICLE XII.

In answer to Article XII these answering re-

spondents deny that all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

Wherefore these answering respondents pray that this Honorable Court, after due consideration thereof, decree that the finding by the said Deputy Commissioner that said claimant's service at the time of his alleged injury was not maritime in character and that the claim does not come within the provisions of the Longshoremen's and Harbor Workers' Compensation Act, be affirmed and that the libelant take nothing by this action.

SYRIL S. TIPTON

Attorney for Respondents Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation.

[Verified]

[Endorsed]: Filed Mar. 30, 1942. [10]

[Title of District Court and Cause.]

ANSWER OF RESPONDENT WARREN A. PILLSBURY, DEPUTY COMMISSIONER, UNITED STATES EMPLOYEES' COMPENSATION COMMISSION TO LIBEL IN PERSONAM.

Comes now the respondent Warren A. Pillsbury, Deputy Commissioner of the United States Em-

ployees' Compensation Commission in and for the 13th District, by his attorney William Fleet Palmer, United States Attorney for the Southern District of California, and Howard V. Calverley, Assistant United States Attorney for said District and answers the libel filed herein as follows:

I.

Admits the allegations contained in Article I.

II.

Answering Article II, respondent admits the allegations of said paragraph, excepting that he denies that the respondent Hillcone Steamship Company was the owner of the Steamship "Prentiss" and alleges that said Steamship "Prentiss" was laid up at the dock of the [11] Santa Cruz Oil Company permanently.

III.

Answering Article III respondent admits the allegations of said Article, excepting that he denies that libelant was an able-bodied man during the month of February, 1937, and denies further that the libelant was in the employ of the Hillcone Steamship Company.

IV.

Admits the material allegations contained in Article IV.

V.

Admits the allegations contained in Article V, excepting that the respondent denies that the libelant's descent of said ladder and slipping thereon caused a

forcible wrenching of libelant's back and spine, causing libelant continued disability ever since said day to and including the filing of the libel.

VI.

Denies the allegations contained in Article VI.

VII.

Admits the allegations contained in Article VII.

VIII.

Denies the allegations contained in Article VIII, excepting that respondent admits that he is the Deputy Commissioner of the United States Employees' Compensation Commission in and for the 13th District, and made no findings as to the amount of libelant's average earnings for one year immediately preceding the month of February, 1937.

IX.

Admits the allegations contained in Article IX.

X.

Denies the allegations contained in Article X.

XI.

Answering Article XI, respondent is prepared to file with [12] the Clerk of the Court at any time fixed by the Court a certified copy of all proceedings had before him, together with all exhibits, transcripts of testimony and any and all letters and documents relevant to the matter herein contained and as directed by the Court.

XII.

Denies the allegations contained in Article XII.

XIII.

Admits the allegations contained in Article XIII.

Wherefore, respondent prays that the libelant take nothing by his ilbel.

WM. FLEET PALMER

United States Attorney

HOWARD V. CALVERLEY

Assistant U. S. Attorney

Counsel for Respondent Warren A. Pillsbury, Deputy Commissioner of the United States Employees' Compensation Commission, in and for the 13th District.

[Endorsed]: Filed Mar. 31, 1942. [13]

At a stated time, to-wit: The February Term, A. D. 1942, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 14th day of April in the year of our Lord one thousand nine hundred and forty-two.

Present: The Honorable Harry A. Hollzer, District Judge.

[Title of Cause.]

No. 1790-H Adm.

This cause coming on for setting for trial; R. P. Fontana, Esq., appearing as counsel for the plaintiff; Cyril S. Tipton, Esq., appearing as counsel for the Hillcone Steamship Company; James L. Crawford, Assistant U. S. Attorney, appearing as counsel for Warren A. Pillsbury, etc.;

Counsel state they may be able to present case on stipulation of facts and the law applicable thereto.

It is ordered that the cause be, and it hereby is, continued to May 4, 1942, for setting. [14]

At a stated term, to-wit: The February Term, A. D. 1942, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 4th day of May in the year of our Lord one thousand nine hundred and forty-two.

Present: The Honorable Harry A. Hollzer District Judge.

[Title of Cause.]

No. 1790-H Adm.

This cause coming on for setting; Cyril S. Tipton, Esq., appearing as counsel for Hillcone Steamship Company; Wm. Worthington, Assistant U. S. Attorney, appearing as counsel for Warren A. Pillsbury, etc.:

Counsel state that the cause may be submitted on evidence before the Court. It is ordered that the cause be heard on the record as now certified by the Commissioner and that briefs be filed as follows: Libelant's opening brief by May 14, 1942, Respondents' answering briefs by May 25, 1942, and Libelant's closing brief by May 30, 1942.

It is ordered that the cause be placed on the calendar of June 9, 1942, at 10 A. M. for argument and submission. [15]

CERTIFICATE OF WARREN H. PILLSBURY,
DEPUTY COMMISSIONER, UNITED
STATES EMPLOYEES' COMPENSATION
[16]

United States Employees' Compensation
Commission

13th Compensation District

In the matter of the claim for compensation under
the Longshoremen's and Harbor Workers Com-
pensation Act.

ALBERT V. STEFFEN,

Claimant,

vs.

HILLCONE STEAMSHIP COMPANY,

Employer.

ASSOCIATED INDEMNITY CORPORATION,

Insurance Carrier.

Case No. 2739-1

Claim No. 1545

CERTIFICATION.

This is to certify that I am the duly appointed, qualified and acting Deputy Commissioner of the United States Employees' Compensation Commission under the Longshoremen's and Harbor Workers' Compensation Act, for the Thirteenth Compensation District, comprising the State of California and other portions of the United States;

That there has recently been pending before me as said Deputy Commissioner, a claim for compensation under said Act of Albert V. Steffen against Hillcone Steamship Company, employer, and Asso-

ciated Indemnity Corporation, insurance carrier, my file No. 2739-1;

That the attached are originals or true and correct copies of pleadings, transcript of testimony, and exhibits in said file, as listed below, being a copy of the entire file therein so far as relevant to a review of the above proceeding:

1. Copy of Claim.
2. Copy of Answer.
3. Original Transcript of Testimony of February 5, 1941.
4. Original Transcript of Testimony of March 18, 1941.
5. Original Transcript of Testimony of April 17, 1941.
6. Copy of Compensation Order-Rejection of Claim of August 22, 1941.

Given under my hand at San Francisco, California, this -- day of March, 1942.

WARREN H. PILLSBURY

Deputy Commissioner

13th Compensation District

[17]

Case No. 2739-1

Insurance Carrier's No. 5

UNITED STATES EMPLOYEES'
COMPENSATION COMMISSION

Office of Deputy Commissioner

Administering Longshoremen's and Harbor Workers' Compensation Act

Employee's Claim for Compensation
(To be filed with the Deputy Commissioner in accordance with sections 13 and 19 of the law)

Injured Person

1. Name of employee—Albert V. Steffen.
Employee's check No.—
2. Address: Street and No.—U. S. Marine Hospital. City or town—San Francisco.
3. Sex—Male. Age—46. Married, single, widowed—Single.
4. Do you speak English?—Yes. Nationality—American.
5. State regular occupation—Watchman.
6. What were you doing when injured?—Leaving ship to answer phone.
7. (a) Wages or average earnings per day,—\$5.00. (Include overtime, board, rent, and other allowances.) (b) Per week, \$---. (c) Were you employed elsewhere during week in which you were injured?—No. (d) If so, state where and when—.
8. Were you paid full wages for day of accident?—Yes.

Employer

9. Employer—Hillcone Steamship Co.
10. Office address: Street and No.—311 California St., City or town—San Francisco.
11. Nature of business—Oil Transportation.

The Injury

12. Place where injury occurred—Craig Ship

Yard, Long Beach (Give place, and name of vessel)

13. Name of foreman—Fred H. Cordes, agent.

14. Date of accident or first illness, the—8th day of Aug. 1938, at 11 o'clock A. M.

15. How did accident happen or how was occupational disease caused?—Ladder on side of ship let go, causing me to fall. Bumping right knee. Falling about 6 ft. landing on railing injuring my back.

Nature and Extent of Injury

16. State fully nature of injury or occupational disease: After injury to 4th lumbar and right knee I have had constant pain, arthritis seems to have set in since accident.

17. On what date did you stop work because of injury? Aug. 8th, 1938.

18. Have you returned to work? (Yes or No.) No. If "yes," on what date?—

19. Does injury keep you from work? (Yes or No.) Yes.

20. Have you done any work in period of disability? No. Confined to hospital.

21. Have you received any wages since injury? Yes. If so, from and to what date? 8-31 9-15, 9-30-1938 While in hospital.

22. Has injury resulted in amputation? No. If so, describe same—

23. Did you request your employer to provide medical attendance? Yes. Has he done so? Yes.

24. Attending physician: Name—U. S. Public Health, San Pedro. Address—San Pedro, Cal.
25. Hospital: Name—U. S. Marine Hospital. Address—14th & Lake St., S. F.

Notice

26. Have you given your employer notice of injury? (Yes or No.) Yes. When? 8/8/38.
27. If such notice was given, to whom? Fred H. Cordes, (Agent).
28. Was it given orally or in writing? Orally.

I hereby present my claim to the Deputy Commissioner for compensation for disability resulting from an injury arising out of and in the course of my employment and not occasioned solely by intoxication, or by my willful intention, and in support of it I make the foregoing statement of facts.

Signed by ALBERT V. STEFFEN,

Claimant.

Mail Address,

U. S. Marine Hospital, City.

Dated Jan. 20, 1941.

[Filed Jan. 25, 1941 R.] [18]

United States Employees' Compensation
Commission

Office of Deputy Commissioner

Administering Longshoremen's and Harbor Workers'
Compensation Act.

Case No. 2739-1

Insurance Carrier's No. 5

Answer of Employer or Insurance Carrier
To Employee's Claim for Compensation

ALBERT V. STEFFEN,

Claimant,

vs.

HILLCONE STEAMSHIP CO.,

Employer

ASSOCIATED INDEMNITY CORP.,

Insurance Carrier.

The employer or insurance carrier above named
for answer to the claim respectfully shows:

1. It is denied that applicant sustained an injury on or about the date set forth in the application.

2. It is denied that both the employer and employee were subject to the Longshoremen's and Harbor Workers' Compensation Act at the time of the alleged injury.

3. It is denied that the relationship of employer and employee existed at the time of the injury.

4. It is denied that at the time of the alleged injury the employee was performing service growing

out of and incidental to his employment.

5. It is denied that notice of injury was given employer as specified in application.

6. It is denied that applicant was permanently disabled to the extent stated in application.

7. It is denied that applicant was temporarily disabled for the period stated in application.

8. It is denied that the rate of wages as set forth in application is correct.

9. It is alleged that this claim is barred by reason of the provisions of Sections 12 and 13 of the Longshoremen's and Harbor Workers' Compensation Act.

Signed R. O. PURVIS

Attorney for Employer
and Insurance Carrier.

[Filed Feb. 5, 1941 R.]

Note.—The employer or insurance carrier should answer the claim within ten days from the date that a copy of it is served upon him. The original answer should be mailed to the deputy commissioner at the above address and a copy thereof served upon the claimant either personally or by mailing to the address in the claim. [19]

United States Employees' Compensation Commission Before Warren H. Pillsbury, Deputy Commissioner, 13th Compensation District.

Claim No. 1545

Case No. 2739-1

ALBERT V. STEFFEN,

Claimant,

vs.

HILLCONE STEAMSHIP COMPANY and
SANTA CRUZ OIL COMPANY,

Employers,

ASSOCIATED INDEMNITY CORPORATION,
Insurance Carrier.

TRANSCRIPT OF TESTIMONY AT HEARING

Pursuant to notice, this matter was heard before Warren H. Pillsbury, Deputy Commissioner, United States Employees' Compensation Commission, at the United States Marine Hospital, at San Francisco, California, on February 5, 1941, at 10 A. M.

Appearances:

Claimant present and represented by Emmett Burns, Attorney.

Defendants represented by Roy O. Purvis, Attorney.

Mildred McColgan, Reporter. [21]

Mr. Pillsbury: Hearing on claim for compensation filed January 25, 1941. An answer has been filed.

This injury was not reported to me by any one and the first paper coming to my record concerning it was the claim of January 20, 1941, filed January 25, 1941.

Mr. Burns, what are you contending?

Mr. Burns: I claim that this case comes within the Longshoremen's Act, that he was employed by the Hillcone Steamship Company, that he was injured as he states here, sometime prior to August 8, 1938, and there was notice given to Mr. Cordes, his employer; that his employer took him to the hospital, and later up here; and they have acknowledged that they have told this man repeatedly, after having paid him several payments while in the hospital, they told him that he would be taken care of and get a lump sum, and it is finally gotten to a point where they will not answer his letters or communicate with him. First they came here and told him everything would be all right, everything would be taken care of, and I contend that the man is entitled to his compensation from the date of injury up to the present time, and whatever admittance papers were made out for the man were made out by them, whatever classification they put him under when they put him in the Marine Hospital, Mr. Cordes was present and he handled it.

Mr. Pillsbury: Who is Mr. Cordes?

Mr. Burns: The agent of the Hillcone Steam-

ship Company in [22] charge of the Los Angeles office, and is their employee, and we will develop the number of times he came here to see the patient, and after the first two payments that he received while here, which were for wages, was cut off and was told whenever he was ready to come out he would be given his wages and they would take care of him.

Mr. Purvis: I contend that the entire statement of facts given by Mr. Burns is false. He was never injured in the course of the employment, and any sums of money received from the employer were for wages for work performed and that no payments of money of any kind were made subsequent to that; at no time was the employer given any notice of claim of any injury, and further that he has been under treatment for a number of years for multiple arthritis and that the present condition can be proved to be a diseased process and not as a result of an injury.

THE FOLLOWING FACTS ARE AGREED TO
BY THE PARTIES:

1. That on and about the date mentioned in the claim, August 8, 1938, the Associated Indemnity Company, defendant herein, was the insurance carrier under the Longshoremen's and Harbor Workers' Compensation Act for defendant Hillcone Steamship Company and for the Santa Cruz Oil Company.

Mr. Pillsbury: As Mr. Purvis states that there

is a possibility that the employer, if any, might be the Santa Cruz Oil Company. [23]

It Is Stipulated that the Santa Cruz Oil Company may be joined as a party defendant in this proceeding, and it is hereby joined as such party defendant.

Mr. Purvis waives service of process and enters appearance for the Santa Cruz Oil Company and consents that the hearing proceed today, waiving ten days notice to them.

2. It is further agreed that no claim is made of intoxication or self-inflicted injury contributing to the alleged injury.

3. That medical treatment has been furnished to defendant by the United States Marine Hospital Service without expense to claimant or defendants.

4. That no compensation has been paid.

Mr. Pillsbury to Mr. Purvis: In that connection, according to the statement that some payments were made by the employer, do you wish to claim any credit for such payments if it is shown that they were made?

Mr. Purvis: I cannot consider that any such payments were made.

Mr. Pillsbury: If any payments were made under a theory of maintenance benefits to a seaman or otherwise, you do not ask for any credit for them?

Mr. Purvis: No, sir.

The issues are:

1. Who was the employer at the time of the alleged injury. [24]

2. Whether claimant was injured as claimed.
3. Whether such injury occurred in the course of his employment with either Hillcone Steamship Company or Santa Cruz Oil Company.
4. Whether such injury occurred in the course of and arose out of employment.
5. Whether the claim is barred by failure to give notice of injury in the manner prescribed by the Longshoremen's and Harbor Workers' Compensation Act.
6. Average earnings at the time of the alleged injury.
7. Extent of disability due to alleged injury.
8. Whether claimant's employment and the location of the alleged injury are such as to bring the claim within the Longshoremen's and Harbor Workers' Compensation Act.

An answer has been filed.

Mr. Purvis: I want to make an issue of the fact that the employee gave no notice to the employer and that therefore the claim is barred.

Mr. Burns: We contend on the other hand that notice was given to the employer and that he comes within Section 35.

Mr. Pillsbury: Mr. Purvis, you are relying on both sections 12 and 13 then, your answer sets up the allegation that the claim is barred by both sections, so you are now defending on the ground that notice was not given within thirty days and claim not filed within one year from injury? [25]

Mr. Purvis: That is correct, yes.

Mr. Pillsbury: The record may show both issues.

ALBERT V. STEFFEN,

claimant, being first duly sworn, testified as follows:

Mr. Pillsbury: Q. Your name is Albert V. Steffen? A. Yes.

Q. Your present address is United States Marine Hospital, San Francisco? A. Yes.

Q. You are claiming that you are ill by reason of some injury that you have sustained?

A. Yes.

Q. Now about when was this injury, Mr. Steffen?

A. Mr. Pillsbury, I swear it was in February, or about the time of that rain spell in 1937.

Q. The claim states it was about August 8, 1938?

A. Well, I made a mistake, because that was the time that Mr. Cordes let me have his car to go to San Pedro.

Q. How do you fix the date of the injury?

A. The only thing I can say is, just before that rain.

Q. What do you mean by that rain?

A. It was just two or three days before that terrible rain and Mr. Cordes came down to pick me up.

Q. What do you mean by that terrible rain? [26]

A. Well, it was a big wash out in Long Beach and washed out the bridge.

Q. You are speaking now of the flood of the Los Angeles River which caused rather heavy loss of life in Los Angeles County, including the washing out of the bridge at Long Beach? A. Yes.

(Testimony of Albert V. Steffen.)

Q. It would not be difficult to fix the date of that.

Mr. Pillsbury to Mr. Purvis: Now, Mr. Purvis, if the date of the alleged injury should be about February, 1937 instead of August 1938, would you stipulate still as to insurance coverage?

Mr. Purvis: No. I would not say that, because it commenced April 1, 1938, but it may be a renewal, but I don't know.

At this point the Deputy Commissioner raises the question of policy coverage in view of the dates covered by the previous stipulation, and after inquiry at his office, Mr. Purvis stipulates on further investigation, that the Associated Indemnity Company was the insurance carrier of the two alleged employers mentioned on or about February 1, 1937 and continuous to August 8, 1938 and all of the stipulations heretofore noted are included, with reference to the new date arrived at by claimant.

I am also under the impression that the February to which claimant alleges was the date of injury, occurred in 1938 [27] rather than 1937, but this can be checked from current information.

Mr. Pillsbury to Claimant: Q. Now at the time of this alleged injury, who were you working for?

A. My boss?

Q. Who was your employer?

A. Fred Cordes, he was the agent for the Hillcone Steamship Company.

Q. Do you know anything about a Santa Cruz Oil Company? A. Yes.

(Testimony of Albert V. Steffen.)

Q. Do you know whether you were on the payroll of the Hillcone Steamship Company or the Santa Cruz Oil Company?

A. I could have been on either one.

Q. What was your job at the time of this alleged injury?

A. I was a watchman, taking care of the S. S. "Prentiss".

Q. How long had you had that job?

A. I began work in 1931 and I was laid off during the strike.

Q. 1934 strike or 1936 strike? A. No

Q. First or second strike?

A. That was in 1934, and then I returned to work in 1935 or 1936, something like that, and I worked on through until August, whatever it was, I forget now. I was called over to the telephone, and they said that Mr. Cordes wanted me to [28] come over to be ready to make a trip to Los Angeles, and coming down off the ship, the ladder was on the bow.

Q. You are speaking now about how you got hurt? A. Isn't that what you want?

Q. Before you come to that, what kind of a job did you have? What did you do for these companies, or this company, from 1932 until the strike?

A. I was taking care of the S. S. "Prentiss" when she was tied up.

Q. As a watchman? A. Yes.

Q. Through those four years?

(Testimony of Albert V. Steffen.)

A. All the time.

Q. After the strike did you go back to work again in the same job? A. Yes.

Q. And were you working on the same job at the time of this accident? A. Yes.

Q. What did you do on this job?

A. I was to stay aboard, during 1936 I think it was, they were preparing the ship for a supply ship for the "American Fisher". They had engaged the "Birdie Hanlon" and was going to put this ship in condition to supply her, so they brought this ship down there to the "Birdie Hanlon", and there was a [29] tarpaulin that was missing and it demanded a man staying aboard at night, and there was no preparation on the ship at all, so we did the best we could in putting some mattresses in there to make a bed in the captain's quarters, and then it leaked so bad that I couldn't stay there any more and I told Mr. Cordes that something has to be done, and I noticed that with the dampness there that below deck had to be fixed, so he appropriated the fund to take care of that deck.

Q. When was that? A. About 1936.

Q. Did you continue on as watchman then on the "Prentiss"?

A. I have never been anything for the company but as a watchman.

Q. Now at the time of this accident, which you say was either February 1937 or 1938, what were your duties?

(Testimony of Albert V. Steffen.)

A. Just to go aboard, and I did a lot of painting in the day time and at night I had to stay aboard, and of course whenever Mr. Cordes wanted me to drive for him, I did.

Q. Drove his auto? A. His car, yes.

Q. Now was there any crew on the S. S. "Pren-tiss" at the time of your injury? A. No.

Q. How long had it been since there had been a crew on board at the time of your injury? [30]

A. They had been preparing that ship off and on for the last five years.

Q. Had the ship done any navigating during that five year period? A. No, sir.

Q. Where was it tied up?

A. At the Craig Shipyard in Long Beach.

Q. Why?

A. They were preparing it for a supply ship for the "American Fisher" and the "American Miraflores".

Q. What preparation had been going on?

A. Just removed a boiler and put some new booms on the side and moved her over to a dolphin over in the dry dock, and I can't remember the date, but anyway it was right after that that they had spent about eight thousand dollars and they were going to tie her up for a while, but my job was the same.

Q. Did it go into navigation after the injury?

A. No, I took care of it.

Q. Has it ever gone into navigation since your injury?

(Testimony of Albert V. Steffen.)

A. I don't know, I have been here for years.

Q. When did you last see the ship?

A. When I left it in August, whatever day it was.

Q. August, 1938? A. Yes.

Q. And do you know what has happened with reference to [31] the ship since then?

A. I know that they moved the ship.

Q. You say it was undergoing repairs and structural changes in the Craig Shipyard at the time of your accident? A. Yes.

Q. You were the only person working on board?

A. For a time there was Captain Corliss, First Mate, and Chief Speiler, and they stayed there for a while during the slack season, and later on they were transferred to the various ships.

Q. Now tell me how you got hurt?

A. Well, they called over to me, and I was coming off the ship and the ladder was from the bow to a sort of pontoon that was connected with the dry dock and the forward line was on the dry dock, and she was off on the dolphin here and the ropes of the ladder on one side, and in coming down, well, I couldn't swear to that, I don't know how far it was, —it was eight or ten feet, and the ladder let go and it hit my knee and I swung to one side and the next thing I knew my back was swung over to one side and I landed on my back, and I laid there for a little while, I don't know how long.

Q. Was the "Prentiss" afloat on navigable waters at that time?

(Testimony of Albert V. Steffen.)

A. It was right there in the dry dock.

Q. Was it in the dry dock? [32]

A. No.

Q. Was it afloat on the water? A. Yes.

Q. What were you going down at the time?

A. To answer a call from Mr. Cordes.

Q. What were you coming down?

A. A ladder.

Q. What kind of a ladder?

A. A shipyard ladder.

Q. Where was the ladder at the time?

A. Tied off the bow of the ship.

Q. From the ship to where?

A. To this pontoon.

Q. That was afloat in the dry dock?

A. Yes.

Q. And you were coming down that ladder when something broke?

A. The lashing let go, due to a broken line, it let go.

Q. Did you fall off the ladder?

A. Yes, on to the pontoon.

Q. How far did you fall?

A. To be honest, I would say about eight or ten feet.

Q. Now what was done about you as soon as you fell?

A. Well, I immediately went over to the yard, and Mr. Cordes was waiting for me, and I said, "I don't think I [33] can make this trip, I just had a terrible spill," and he said, "Hell, you will be all

(Testimony of Albert V. Steffen.)

right", so I got in and I drove but it pained me, and we got as far as Lancaster, and that is the reason I bring out the flood conditions, because it started to rain for a couple of days, so I turned the car around and I said, "We can't get through," and as I did, it got me, and it locked on me.

Q. What locked on you?

A. My back, and I said, "It's got me" and I told him I fell off the ship getting down here, and he said, "You will be all right", and then we went down to the Jonathan Club.

Q. Where is that?

A. Figueroa Street, Los Angeles, and we went in there and he immediately went down to see me, and he told a hold of me and worked on my back, and he said, "You got a bad back", and I went back up to the room, and we had a few drinks and we stayed around and we didn't go back for three days, and on the second day, we spent that in Mr. Cordes' pent house, and then it was very noticeable that I had to have a doctor, but we thought we would get by anyway, and the next morning we went down to the doctor and he taped me up.

Q. What doctor? A. Now you got me.

Q. Did Mr. Cordes send you?

A. No, I went by myself. [34]

Q. And you can't remember his name?

A. No, then later on, it was two days later—and every morning, the second morning at the Jonathan Club, they had to come in and help me to get in the

(Testimony of Albert V. Steffen.)

steam room, and after the steam they rubbed a liniment on my back to relieve me a little, and then we returned to Long Beach and I went aboard the ship for a few days, and then I went to a chiropractor and I went to an osteopath, and I went to Dr. Carroll, all kinds of doctors.

Q. Did Mr. Cordes or either Company tell you any doctor to go to at any time?

A. No, they never did, and then several months passed and I was getting so I could not stay on the ship any more due to dampness, and I was all stiffened up and my back ached all the time, and so I moved over into the Craig Shipyard in a shack there and I took care of the ship all I could, I would go over and wash down, they had an air hose and water hose, and I would go over and climb the ladder, and I told him I couldn't do it any more, and I said, "There is something go to be done", and I said, "My back is killing me", and he said "You better go around to San Pedro and see the Public Health there and they will take care of you, and I said, "I haven't got the money", and he said, "Never mind the money, they will take care of you", and they wanted to send me in an ambulance immediately to San Francisco. [35]

Mr. Burns: Q. Who was that who sent you there?

A. Fred Cordes, and they wanted to send me to San Francisco to the United States Marine Hospital.

(Testimony of Albert V. Steffen.)

Mr. Pillsbury: Q. Who wanted to?

A. That doctor, there, I think his name is Martin, the head of the Health Department in San Pedro, so he said I would have to go right away, and he wanted me to take an ambulance, and I became frightened, and then I saw my friend Captain Meany, and he said, "You don't have to take an ambulance", and he said, "You have to get him to San Francisco right away, that man has a bad back", so Captain Meany had a friend, and they drove me up, and I became very nervous, and I was up here two months and they kept paying me.

Q. In the Marine Hospital, San Francisco?

A. Yes, and they had me here two months, and my checks came right along, and then Fred came up to see me.

Q. That is Fred Cordes?

A. Yes, as a matter of fact, he was the only one who ever came to see me, and he said, "You will be all right, we will take care of you," and I said, "That is fine, Fred, I always enjoyed working for you, and I was kind of sick for a while there", and then Fred used to come up right along, and a ten spot and a five, always gave me money, and then I asked him one time, I said, "What do you have open for me?" and he said, "I have Jack Burns taking your place now and he is watching, [36] and we moved the ship", and he said, "When you get out we will take care of you", and then sometime later on Fred got married. I wrote to him congratu-

(Testimony of Albert V. Steffen.)

lations, because we were great friends since 1931, and I helped him in a lot of ways, and we carried on a correspondence right along, and I never worried until I wrote after he was married and asked him what about some compensation, and he never answered me, and I didn't know who to see, and I finally got a hold of a friend up here and he said he would take it up with you.

Q. With the Employees' Compensation Commission?

A. Mr. Burns took it up.

Q. You got in touch with Mr. Burns and Mr. Burns filed your claim? A. Yes.

Q. Have you been in the Marine Hospital continuously since you first came up here?

A. I was out for about four months over in Oakland with my sister, I didn't have to climb any stairs and it was all right to go there for a while.

Q. At the time of the accident, when you fell off the ladder, were you on duty at that time?

A. Sure I was on duty all the time because I was the only watchman.

Q. This was during your hours of work?

A. Sure, it was daylight too. [37]

Q. What were your wages at the time of this injury?

A. \$125.00, a little over, about \$63.00 every two weeks, I think I have a stub here (presents stub).

Q. That included your quarters on the boat?

A. Yes, I fed myself.

(Testimony of Albert V. Steffen.)

Q. You were not given any money separately for board?

A. No.

Q. So you got \$63.00 each two weeks?

A. Sometimes \$65.00 it varies with the tax.

Q. How much a month?

A. About \$125.00 (shows a form, being apparently the memorandum portion of a check bearing No. 4635, Statement of Account in full settlement of which payee has accepted the Santa Cruz Oil Corporation check. Salary, July 16th-31st, \$62.50, and the same is received in evidence as Exhibit "A".)

Q. Do you know what year that was?

A. It is 1931.

Q. It says 16-31 of July.

Mr. Burns: That is it.

Mr. Pillsbury: At this point it is agreed that in view of the necessity for further hearing at San Pedro and the probability that further testimony will be taken of claimant and other witnesses at the Marine Hospital, the hearing will now be suspended and when it is resumed here, both sides will resume the examination of claimant along with such other [38] evidence as may be ready, the matter to be set for hearing as soon as possible after my return from my Hawaiian trip on which I am leaving tomorrow, notices to be sent to the parties.

Mr. Purvis: Could we have a physical examination of Mr. Steffen by our doctor?

Mr. Burns: Certainly, you are entitled to have that.

It may be stipulated that I may add to the evidence as exhibits, such card certificates of insurance of the two employers mentioned herein, as I may have in my office, covering periods so far indicated by claimant's testimony.

I will notify the parties by letter of the material thus added to the record.

I hereby certify that the foregoing is a correct transcript of the testimony and proceedings taken in the above matter on February 5, 1941, at 10 A. M.

MILDRED McCOLGAN,

Reporter. [39]

COPY OF EXHIBIT "A"

Statement Of Account In full settlement of which
Payee has Accepted the Santa Cruz Oil Corporation check. No. 4635

Detach before Banking

Salary July 16-31	62.50	
Less: State UI Tax	.62	61.88

COPY OF INSURANCE CARDS

Employer Santa Cruz Oil Corporation

Address 311 California St. S.F. Calif.

Policy No. EP-15970 Effective 12/1/37 Expires
12/1/38

Report is made of this issue of approved form of policy and endorsement under Longshoremen's and Harbor Workers' Compensation Act.

Date 4/11/38

Cancellation 3/31/38

Associated Indemnity Corp.

(signature)

This card to be sent to the Deputy Commissioner of the United States Employees' Compensation Commission in the compensation district indicated by the Employers' address.

Form 228 2M 8-37 x

(Received April 13, 1938-Dist. 13

Employer Santa Cruz Oil Corporation

Address 311 California St. S.F. Calif.

Policy No. EP 15970 Effective 12-1-37 Expires
12-1-38

Report is made of this issue of approved form of policy and endorsement under Longshoremen's and Harbor Workers' Compensation Act.

Date 12-1-37

Cancellation 5/5/38

Effective date

Associated Indemnity Corp.

(signature)

Underwriter

Date notice received by Deputy 4/5/38

Replaced by E.P.18686 see let.4/5/38

Form 228 1 M 8-36 x filed under "H" [40]

July 19, 1937

Employer Santa Cruz Oil Corporation

Address Dollar Bldg. San Francisco, Calif.

Pol.No. W 71974 Beginning Date 6/21/37 Ending

Date 6/21/38

Report is made of this issue of approved form of policy and endorsement under Longshoremen's and Harbor Workers' Compensation Act.

St. Paul-Mercury Indemnity Co.
of St. Paul

By (signature)

Received July 15, 1937 Dist. 13

April 12, 1938

Employer Santa Cruz Oil Corporation

Address 311 California St. S.F. Calif.

Policy No. #EP-18686 Effective 4/1/38 Expires
4/1/39

Report is made of this issue of approved form of policy and endorsement under Longshoremen's and Harbor Workers' Compensation Act.

Associated Indemnity Corporation

By (Signature)

Date 4/8/38

Form 228

(Received 4/12/38 Dist. 13)

Employer Santa Cruz Oil Corporation

Address Dollar Bldg. S. F. Calif.

Policy No. W 72922 Beginning Date 6/21/38 End-
ing Date 6/21/39

/Report is made of this issue of approved form of policy and endorsement under Longshoremen's and Harbor Workers' Compensation Act.

St. Paul-Mercury Indemnity Co.
of St. Paul

By (signature)

Received 6/4/38 Dist. 13 [41]

Employer Hillcone Steamship Co.

Address 311 California St. S. F. Calif.

Policy No. EP-15970 Effective 12/1/37 Expires
12/1/38

Report is made of this issue of approved form of
policy and endorsement under Longshoremen's and
Harbor Workers' Compensation Act.

Associated Indemnity Corporation
(signature)

Date 4/11/38

Cancellation 3/31/38

Date Notice Received by Deputy

This card to be sent to the Deputy Commissioner
of the United States Employees' Compensation
Commission in the compensation district indicated
by the Employer's address.

Form 228 (Received 4/13/38 Dist. 13)
Cancelled

Employer Hillcone Steamship Company

Dec. 7, 1937

Address 311 California Street, S. F. Calif.

Policy No. EP 15970 Effective 12/1/37 Expires
12/1/38 (1st con let 4/11/38)

Report is made of this issue of approved form of
policy and endorsement under Longshoremen's and
Harbor Workers' Compensation Act.

Associated Indemnity Corp.

By (signature)

Underwriter

Date 12/1/37

Cancellation 5/5/38

Effective Date

4/5/38 Date Notice received by Deputy

Rep. by EP 18686

Form 228 (Received 12/2/37)

Employer Hillcone Steamship Co. April 12, 1938

Address 311 California St. S. F.

Policy No. EP-18686 Effective 4/1/38 Expires
4/1/39

Report is made of this issue of approved form of
policy and endorsement under Longshoremen's and
Harbor Workers' Compensation Act.

Associated Indemnity Corporation

By (signature)

Date 4/8/38

Form 228 M

Employer Hillcone Steamship Co. Dec. 14, 1936

Address 311 California St. S. F. Calif.

Policy No. 01-101117 Dates of beginning and ex-
piration 12/1/36-12/1/37. Report is made of this
issue of approved form of policy and endorsement
under Longshoremen's and Harbor Workers'
Compensation Act.

Maryland Casualty Company

Insurance Company

By (signed) Sam L. Webster

Comp. 2022 Printed in U.S.A.

(Received 12/14/36 Dist. 13) [42]

[Exhibit A follows here, a copy of which ap-
pears on page 83 of this printed record]. [43]

Copy forwarded to Washington.

Received Feb. 10, 1941. District No. 13.

[Filed Feb. 10, 1941.] [44]

[Title of Commission and Cause.]

TRANSCRIPT OF TESTIMONY AT HEARING
MARCH 18, 1941.

Pursuant to notice, this matter was heard before Warren H. Pillsbury, Deputy Commissioner, United States Employees' Compensation Commission, at Room 323, New Post Office Building, San Pedro, California, on the 18th day of March, 1941, at 2:00 P. M.

Appearances:

Claimant not present nor represented.

Defendants represented by Mr. S. S. Tipton,
Attorney at Law, 975 Subway Terminal
Bldg. of the legal staff of the Insurance
Carrier. [46]

The Deputy Commissioner: Mr. Tipton, have you any further information as to whether the correct name of the employer is Hillcone Steamship Company or Santa Cruz Oil Company?

Mr. Tipton: I think Mr. Cordes can establish he was employed by the Santa Cruz Oil Company.

The Deputy Commissioner: I believe it is established that the Associated Indemnity Corporation is the carrier?

Mr. Tipton: I believe that is true.

The Deputy Commissioner: At claimant's request I have been through the files of the United States Public Health Service at San Pedro with the Doctor in charge. He has loaned me his files which I will now read into the record.

The first is a record of some ear trouble, the date of the first treatment being around April 17, 1936. The form states that Albert V. Steffen, aged 38, merchant seaman, was received on a Master's Certificate showing a service as an A.B. from January 15, 1936 to March 20, 1936, on the vessel "Edwin B. DeGolia". The history was "States is hard of hearing, has wax in ears." Diagnosis was "Accumulation of wax." Four visits are listed from March 20, 1936 to April 13, 1936 and there is a letter attached to the file from Dr. Harry D. Earle, dated April 17, 1936 stating the original complaint was [47] headache, irritable throat, constant drainage from the back of the throat and obstruction of nose.

The other file shows but one visit of July 27th, 1938. "Albert V. Steffen, aged 40, Merchant Seaman. Authority for admission was Master's Certificate showing service on January 3, 1938 to July 27, 1938 as a Steward aboard SS "Brandywine." The history on the card reads as follows: "Has been suffering from rheumatism for the past four months, which affects right knee, right lumbar spine and right shoulder. The metatarsal of right foot is swollen and tender, the right knee is considerably tender and motion is limited. Diagnosis Arthritis chronic." The record of treatment contains but one entry as follows:

Date 7-27-38. Give In-patient card to U. S. Marine Hospital, San Francisco." The card does not contain any claim of injury or accident.

Now I will take Mr. Cordes' testimony.

FRED H. CORDES,

being duly sworn by the Deputy Commissioner, testified as follows:

Direct Examination

By the Deputy Commissioner:

Q. What is your full name please?

A. Fred H. Cordes. [48]

Q. Your address please?

A. 3051½ Avalon Boulevard, Wilmington.

Q. Your occupation?

A. District Manager of Hillcone Steamship Company, also agent for Santa Cruz Oil Company and I handle two or three sales lines.

Q. Do you know Albert V. Steffen?

A. Yes.

Q. Was he employed by the Santa Cruz Oil Company about August 1938, or August 1937?

A. I think in August 1938 he was in the United States Marine Hospital here. He was employed with us previous to that. I don't know the dates offhand.

Q. He was working on what boat?

A. The "Prentice".

Q. What was his position?

A. Watchman.

Q. Do you know of his sustaining a fall on that boat some four or six months before he became ill?

A. No, I don't.

Q. Did he ever tell you about the accident?

A. No.

Q. Now as to the date, Mr. Cordes, there is some

(Testimony of Fred H. Cordes.)

uncertainty in the claim. Mr. Steffen states he fell from the ladder on the 8th of August, 1938. In his testimony he [49] states he thought the accident was in February, 1937, but he also states that it was about the time of the heavy rain which caused a big washout in Long Beach and washed out the bridge. He also reported to the Marine Hospital at San Pedro and was sent to the Marine Hospital at San Francisco on July 27, 1938. He speaks of this fall being some time shortly before a trip he made with you in driving a car for you in which he drove you as far as Lancaster which was just before the start of this rain and then told you his back was so bad he could not go on and you and he went into the Jonathan Club at Los Angeles. Do those statements, Mr. Cordes, refresh your recollection to the extent that you can fix any of the items in this case?

A. I remember one time we were going to go to San Francisco. We were going to leave on the morning of the day this storm broke out. If I remember correctly it started to rain about eight o'clock at night. That day I had a vessel in loading at one of the terminals here and I didn't want to leave until she had cleared. She was late in getting away and I decided to stay in Los Angeles until she had cleared. At the time the rain had appeared and we decided to stay in Los Angeles, which we did. The storm broke that night and it rained all that day and the next day.

Q. Do you recall the date of that storm?

(Testimony of Fred H. Cordes.)

A. No, I don't remember. I think it was March but [50] what year I don't remember. But as far as driving me to Lancaster and everything else, that is entirely erroneous. We did not get any further than Los Angeles. The weather conditions were so bad we did not try to go through, and came back to Long Beach.

Q. You didn't go to San Francisco?

A. Oh no.

Q. Do you know how far you got?

A. Los Angeles.

Q. The city limits are very far.

A. We stopped with a friend at San Marino Street.

Q. It is your testimony is it that Mr. Steffen never told you he complained to you that he had a fall?

A. No. If he had injured himself in any way and came to me and told me I would have seen to it that he would have gone to a doctor.

Q. Do you recall during this storm that he recalled having trouble with his back?

A. He had trouble with his back a long time before that.

Q. What do you recall as to his back trouble?

A. It was months before he went to San Francisco that he complained of his back trouble, and he had pains in the legs with something like sciatica.

Q. What do you remember specifically about his back? [51]

(Testimony of Fred H. Cordes.)

A. I don't remember exactly. He told me he had been sick with arthritis or whatever name they give it. That he had been in a hospital in the East. That he was all crippled up, that his arms were crossed like that (Indicating arms on each shoulder).

Q. Do you remember what hospital?

A. No, I don't remember that he told me of the hospital.

Q. Do you know when he complained before he left?

A. I would say three or four months before he left.

Q. What did he tell you?

A. He complained of awful pains across his back. He didn't know where it came from or what to do about it. I told him he better look up a good doctor and let him diagnose his case. He didn't go to a doctor for awhile and then went to a couple of quacks I would call them.

Q. Do you remember the name of the doctor?

A. The only name he gave me was Dr. O'Connell in the Press Building, Long Beach.

Q. I see in his letter reference to Southern Pacific records. Do you know anything in connection with Southern Pacific Railroad in regard to his case?

A. No, sir.

Q. What did he do on the "Prentice"?

A. I would say nothing at all. [52]

(Testimony of Fred H. Cordes.)

Q. What was his job?

A. Just to stand by on the boat and see that nobody went aboard to steal things. When he was able he would sweep up sometimes and when he got well he didn't do anything at all.

Q. What living quarters did he have?

A. He had a bunk in there with a mattress.

Q. Did he have heat on the boat?

A. I believe he did have an electric heater in there but he didn't stay on the boat much.

Q. Where did he live?

A. I believe it was 916 Atlantic Avenue, Long Beach. Then he moved down to Ten Hundred and something Ocean Boulevard. He lived in a shack at Craig Shipyard.

Q. Do you know how long he lived in a shack at Craig Shipyard?

A. I believe a couple of months. The only reason he lived there was that he was trying to save money and was so sick he couldn't get along very well.

Q. Did he give up the room at the "Prentice" at the time he took this room at Craig Shipyard?

A. Yes.

Q. How long did he sleep on the "Prentice"?

A. I couldn't tell you. I believe most of the time he went ashore to sleep at night. [53]

Q. What has happened to the "Prentice" since?

A. She was sold to the Craig Shipbuilding Corporation at Long Beach and later on scrapped—

(Testimony of Fred H. Cordes.)

that is to my knowledge. I think the hull was converted to a fishing barge afterwards.

Q. How long before did the "Prentice" go to sea?

A. I couldn't say. She never went to sea when with us.

Q. How long did your company own her?

A. About 2½ years.

Q. When did you give her up?

A. About a year and a half ago.

Q. What did your company purchase her for—for what purpose?

A. She was to be reconditioned and fixed up for a tender ship for the fishing reduction plants which were operating out of San Francisco off the Farallone Islands.

Q. You called on Mr. Steffen several times when he was in the hospital?

A. Yes.

The Deputy Commissioner (To Mr. Tipton): Mr. Tipton, any questions?

Mr. Tipton: Yes.

By Mr. Tipton:

Q. Do you remember Steffen's wage with you?

[54]

A. I think it was \$125.00 a month.

Q. At the time you saw Mr. Steffen at the time he left your work did you ever advise him at any time that you or your company would take care of him?

A. No.

Q. Was that ever discussed?

A. No.

(Testimony of Fred H. Cordes.)

Q. What was the last time you saw Steffen, if you remember?

A. I believe it was nine or ten months ago.

Q. When did he first start working for you or when did you first have any contact or knowledge of Mr. Steffen—how many years ago?

A. When I first became acquainted with him?

Q. Yes.

A. About five or six years ago.

Q. After that first acquaintance and prior to this time he began to complain just before he went to San Francisco, had he any trouble with his back or legs?

A. He had trouble with his back and legs during all that time, off and on.

Q. It was the same condition as he claims now?

A. That is right.

Q. It would clear up and come back again?

A. Yes, that is right. [55]

Q. During the time the vessel was owned by you it was never in service? A. No.

The Deputy Commissioner: Have you any further evidence to offer, Mr. Tipton?

Mr. Tipton: I haven't any further evidence but I can get the report of Dr. O'Connell. He has no records but will give us his recollection of his treatment of the man in 1921, if the Commissioner agrees.

The Deputy Commissioner: The record may be added to the file.

(Testimony of Fred H. Cordes.)

Mr. Tipton: One more question.

Q. Where was that vessel tied up?

A. Craig shipyard.

Q. Was that at the drydock?

A. At the mooring dock.

The Deputy Commissioner: Hearing will be continued at a date to be set for hearing at the Marine Hospital, San Francisco.

I Hereby Certify that the foregoing is a true and correct transcript of the testimony and proceedings at the hearing held at Room 323, New Post Office Building, San Pedro, California, on the 18th day of March, 1941.

SARA L. LANGLEY,
Reporter.

[Endorsed]: Filed April 4, 1941. [56]

[Title of Commission and Cause.]

TRANSCRIPT OF TESTIMONY AT HEARING
APRIL 17, 1941

Pursuant to notice, this matter was heard before Warren H. Pillsbury, Deputy Commissioner, United States Employees' Compensation Commission, at the United States Marine Hospital, at San Francisco, California, on Thursday, the 17th day of April, 1941, at 2:30 P. M.

Appearances:

Claimant present in person.

Defendants represented by Walter Jacobson, Attorney, appearing for Mr. Purvis.

Mildred McColgan, Reporter.

Witness	Page
Albert Steffen	2-14
Dr. Robt. A. Bilafer	5
	[58]

ALBERT V. STEFFEN,

claimant, being previously sworn, testified as follows:

Mr. Pillsbury: Now, Mr. Steffen, you have read the transcript of the testimony taken at San Pedro on March 18th, have you?

A. Yes, I just had a chance to read it for a few minutes while the man was here.

Q. Do you desire to make any further statement with reference to the testimony given by Mr. Cordes?

A. Well, in regard to docking the ship, the ship was tied up, I say it was tied up to the Craig shipyard dry dock, the bow line was on the dry dock. He has it there it was on a mooring, that could have been over at Cataline somewheres.

Q. Now, he states that you never told him about any accident to you?

(Testimony of Albert V. Steffen.)

A. Well, I can't say anything only that I must have told him because he knew it all the time or he would not have sent me to the Public Health in San Pedro, otherwise I could not get into the Public Health in San Pedro and get here.

Q. Did you tell him that you had an accident on the ship? A. Yes, I did.

Q. Now on the records of the Public Health Service appears the entry that you called July 27, 1938 on a master certificate showing service as a steward on the S. S. "Brandywine". At that time you gave the history of suffering from rheuma- [59] tism for the past four months which affects the right knee, right lumbar spine and right shoulder and also the right foot, and doesn't contain any statement that you had made of any accident.

A. I know I told the doctor there at the time he examined me, I just sat alongside the table and he looked at me and I told him what had happened to my back, I told Dr. Graham, a gray haired doctor, I told him it was all because of a fall off the ship, that is what I told him, I explained that I fell off the ladder.

Mr. Jacobson: Q. You testified that you must have told Mr. Cordes about this fall for the reason that that gained your entry into the Marine Hospital? A. I did tell him.

Q. Now isn't it a fact that your entry to the Public Health Service down there was arranged for by a Captain Kimberlinn of the S. S. "Brandy-

(Testimony of Albert V. Steffen.)

wine", do you deny that Captain Kimberlinn took you to the Service? A. He didn't.

Q. Didn't Captain Kimberlinn make arrangements to have you here at this hospital?

A. No, I stated that it was all done by Mr. Cordes.

Q. Who actually and physically went with you?

A. Mr. Cordes.

Q. Went with you? [60] A. Yes.

Q. Had you worked as a steward on the S.S. "Brandywine" just before that? A. No.

Q. When did this accident take place that you testified to?

A. I think it was in March or the latter part of February or March, 1938.

Q. 1938? You are fairly positive of the year, you thought it was 1937 and Mr. Pillsbury corrected you that perhaps it might have been 1938, now what is your recollection today on that?

A. Well, let's see, it was the time of the washing out of the bridge, of the big rain, and I think that was 1938.

Q. Following this supposed fall, what doctor did you go to first, what medical attention did you get?

A. The Public Health.

Q. Following this accident that you had, who was the first doctor that you saw?

A. Dr. Graham, Public Health.

Q. Some time in July, 1938?

A. No, that was before that.

(Testimony of Albert V. Steffen.)

Mr. Pillsbury: I will suspend the examination of claimant at this time so we can release the doctor.

[61]

DR. ROBERT A. BILAFER,

witness, being first duly sworn, testified as follows:

Mr. Pillsbury: Q. Your full name, please?

A. Robert A. Bilafer.

Q. You are a physician and surgeon and a member of the staff of the United States Marine Hospital?

A. Yes.

Q. Do you have the file here of Mr. Steffen?

A. Yes.

Q. Under what circumstances was he admitted to the hospital, doctor?

A. He was admitted to the hospital on August 5, 1948 with a card "D" from San Pedro, stating that he had three years of service up to August 4, 1938 on the "Prentiss".

Q. And was any history given on that card?

A. The history which was taken on August 5th—

Q. Did any history come up with him from San Pedro?

A. I think there is a card "D" but I will have to go fishing for it. (Reads) The card "D" from San Pedro states, under remarks, "Merchant seaman, sent up with arthritis chronic" and that is the extent of the notes. (Presents card dated July

(Testimony of Dr. Robert A. Bilafer.)

28, 1938, entitled, "Hospital admission card, U. S. P. H. S. District 5, station San Pedro, California, United States Marine Hospital San Francisco will please admit A. V. Stiffen, age 40, sex male, color white, class, merchant seaman. Remarks, [62] D 138 arthritis chronic, (signed) R. E. Bodet, Surgeon, Medical Officer in charge."

Q. Now, doctor, what history was obtained from Mr. Steffen on his admission here?

A. The chief complaint was arthritis, and he stated, seven months ago he fell from his ship, striking his back on a pontoon. He went on with his work and later while driving from Los Angeles, his back began hurting him. He later suffered from what he described rheumatic pains. Later his right knee and right foot became swollen and his left foot became involved. However, the pain practically vanished from the left foot. He had suffered previously when the weather was damp and cold. He also has nauseating feeling which he feels came from a discharge in his nose and throat. That is all.

Q. What was the diagnosis, doctor?

A. The diagnosis made on August 5, 1938 was arthritis, chronic, hypertrophic, right knee, ankle and spine; cardiac disease, atrial miocardial block, complete.

Q. When was your first personal acquaintance with the case, doctor?

A. On April 27, 1939, and since that time.

(Testimony of Dr. Robert A. Bilafer.)

Q. Since that time what has your diagnosis been?

A. Osteoarthritis chronic of the lumbar spine, hammer toes of the 2d, 3d, 4th and 5th toes bilateral callosity, sole of left foot, papillomata, sole of left foot, arthritis, [63] chronic, both feet, synovitis, chronic, right knee, sinusitis, chronic, cardiac disease, miocarditis, chronic, stricture, urethral, posterior, slight.

Q. Assume, doctor, that about February, 1938, he fell from a ladder on the side of a ship, a distance of about six feet, falling on his back, and has complained of pain in his back since that time; assume further, that he was not in any known physical abnormal condition prior to that time, that is, that he didn't know at that time that he had been suffering from any previous illness, what is your opinion, doctor, as to whether he has suffered any disability since the time he entered the hospital, as a result of such an injury?

A. Will you repeat that, please?

(Question reread.)

Q. In other words, doctor, has he been suffering or is he now suffering from any condition which would be the result of such a fall?

A. He could well have had an aggravation of a pre-existing arthritis of the spine, right knee and ankle, and I feel it has given him considerable trouble since the date of the injury because of such aggravation.

Q. How long, doctor, does the effect of such an

(Testimony of Dr. Robert A. Bilafer.)

injury continue to be present as the contributing cause to the continuance of this disability?

A. That all depends entirely on the degree of the injury, the degree of the osteoarthritis, the general condition of the [64] patient.

Q. Let me ask you this way, has he reached a stage at any time at which he would be suffering from the pre-existing arthritis uninfluenced by any further contributing influence of the fall?

A. That is a very difficult question to answer.

Q. These arthritic back cases are about the most difficult type of cases that I have.

A. I feel that the back pain that he complains of now could well have been caused by the aggravation.

Q. You think if he had not had this accident of an equivalent accident he would have remained able to do his full work during the whole period after February, 1938, or would the arthritic condition have approximately brought to him about the same extent of disability in the course of time without the accident?

A. That may or may not be true, one could not answer that question definitely, as we all know, arthritis progresses, and here is a man at the age of forty-one, it might be that his arthritis would be giving him pain had he not had the accident.

Q. Were x-rays taken? A. Yes.

Q. Were there traumatic conditions shown by the x-rays? A. No, sir.

(Testimony of Dr. Robert A. Bilafer.)

Q. How extensive is the arthritis in the first x-rays? [65]

A. The roentgenologist stated on August 9, 1938, that he observed evidence of a bilateral arthritic change of both right and left saeral synchondrosis, with evidence of certain degree of chronic infectious arthritis, hypertrophic type of osteoarthritis deformans of the lumbar spine including the lumbo-dorsal junction, lumbo-sacral junction.

Q. Do later x-rays show any change or any extension of the condition?

A. On May 24, 1940, the report states the bodies of the twelfth dorsal, first, second, third and fifth lumbar vertebra are observed on the negative, which shows a definite arthritic change, chronic infectious arthritis, hypertrophic type of osteoarthritis deformans of the lumbar spine including the lumbo-dorsal junction, lumbo-sacral junction.

Q. Have you access to the x-rays, doctor?

A. Yes, on August 21st, in comparison——

Q. In what year?

A. 1940,—in comparison with the present, with the previous negative observed a report on May 24th of the present negative shows a marked or essential change in the amount of the extent of the existing chronic infectious arthritis, that is the only comparison that we have had. I will get the x-rays for you.

Q. Where is the most of his disability now, doctor, in the back or in the other joints? [66]

(Testimony of Dr. Robert A. Bilafer.)

A. His chief disability now is both his back and his feet.

Q. Doctor, taking this film of August 7, 1938, how much indication of arthritis is there in this film of 27431, would you say it is severe or slight?

A. I would say it is slight.

Q. And this film of August 7, 1938, does that show an extensive condition, or slight?

A. Slight.

Q. And this film of the foot of August 15, 1938, does that show arthritis?

A. To a slight degree.

Q. Now this film of August 20, 1940, how does that appear?

A. There doesn't appear to be any essential change in the arthritic changes as evidenced by the x-ray findings.

Q. To what extent is Mr. Steffen disabled from working as a stevedore or doing heavy physical work at this time?

A. He is totally disabled for heavy physical work at this time.

Q. Because of what condition?

A. Because of osteoarthritis of his back, knee and feet.

Q. And is that condition active and painful?

A. It is painful, yes.

Q. Any muscle spasm of the back?

A. There is some muscle spasm, I have not examined Mr. Steffen's back for some time. [67]

Mr. Jacobson: Q. Doctor, these numerous

(Testimony of Dr. Robert A. Bilafer.)

symptoms or conditions that Mr. Steffen's has, could they not be explained on an infectious basis almost consistently, right down the line?

A. What is that again?

Q. You have enumerated the arthritis, the condition of the toes, synovitis of the right knee, sinus infection, cardiac condition, are these not practically all explained on the infectious origin?

A. No, sir.

Q. What symptoms or condition that he has are there that are purely of traumatic origin?

A. The only condition present in the list of diagnoses given that could definitely be traumatic, is the synovitis of the right knee.

Q. That is the only one that could definitely be traumatic? A. Yes.

Q. All of those are infectious? A. No, sir.

Q. Which are not?

A. Hammer toes and callosity and papillomata are not infectious in origin but come from an abnormal weight bearing of the feet, which may have been due to many causes.

A. It is constitutional, would you say, or just a physical abnormality? [68]

A. Depends upon what you mean by constitutional and what you mean by physical abnormality.

Mr. Pillsbury: Q. Doctor, to clear the record, these back sprains or arthritic back cases usually come to me on the theory of an aggravation or an exacerbation of a pre-existing osteoarthritis by trauma, is that the case here, in your opinion?

(Testimony of Dr. Robert A. Bilafer.)

A. In my opinion I feel that his present condition could have been due to an aggravation of a pre-existing condition.

Q. Then the accident, assuming it to have occurred, did not cause the arthritis?

A. No, sir.

Q. It was there before but was aggravated and made painful by the accident.

A. Yes, it might have.

Q. And the arthritis has not itself, increased any since the accident? A. No, sir.

Q. Now the condition of hammer toes and the papillomata, those were not effected by the injury, assuming there to have been a fall?

A. That depends entirely upon the condition of his feet prior to the alleged injury.

Q. Doctor, how many of the items in the diagnosis that you have referred to might be explained, in your opinion on [69] the theory of aggravation of pre-existing arthritis by accident, and how many of the items are wholly independent of any injury and not effected by it?

A. Osteoarthritis chronic in the lumbo-sacral spine, synovitis chronic of the right knee are the conditions that probably were aggravated on the date of the alleged injury.

Q. And the remainder of your diagnosis may be attributed, may they, as not bearing any relation to the supposed injury? A. Yes.

Q. So we are down to two conditions that may

(Testimony of Dr. Robert A. Bilafer.)

be attributed to the injury in whole or in part?

A. Yes.

Mr. Jacobson: Q. Could Mr. Steffen have had those two conditions in their present form independent of the alleged fall of 1938?

A. He could have had the two conditions in their present form independent of the alleged fall.

Q. Therefore the accident could or could not have aggravated it?

A. Yes, that is what I have been trying to say all afternoon.

Mr. Pillsbury: Mr. Steffen, do you want to ask the doctor any questions?

Mr. Steffen: No.

Mr. Pillsbury to Mr. Jacobson: Any further questions of [70] Mr. Steffen?

Mr. Jacobson: Yes, I have.

ALBERT V. STEFFEN,

claimant, recalled, testified as follows:

Mr. Jacobson: Q. Mr. Steffen, I think the last question I asked you was, what was the first medical attention that you sought following this fall, was it Dr. Graham?

A. No.

Q. Who was it?

A. I tried to tell at the last hearing, the first

(Testimony of Albert V. Steffen.)

doctor was in the Los Angeles, I think, he taped up my back.

Q. Do you know his name?

A. No, I don't know, I tried to remember it here at the last hearing.

Q. About when was that?

A. The latter part of February.

Q. Was it an M. D. or an osteopath?

A. Yes, an M. D.

Q. How did you happen to go to him?

A. Mr. Cordes and I were in Los Angeles and we were going to drive to San Francisco, and we went to Los Angeles and the back bothered me and we stopped at the Jonathan Club and then I had severe pain and could hardly get around, and we went to the steam room and Eddie, the chief rubber there, told me, he was a friend of Mr. Cordes, "You got a bad back there, [71] you better go to a doctor", and I said, "I will get by all right, I will go to the Public Health when we get back. Mr. Cordes is going to send me over, and three nights I laid around, stayed at his pent house and while we were at the pent house I was so sick my back was throbbing so that I couldn't straighten it up and I went to some doctor, the lady that owned the pent house told me about, and I went to him and he said, "All I can do is that I can tape it", that is the first doctor.

Q. Who was the next doctor?

(Testimony of Albert V. Steffen.)

A. Dr. Sittle, he is in Long Beach in the First National Bank Building on the second floor.

Q. Spell the name, please?

A. I think S-e-t-t-l-e. I have his card upstairs and can make positive of it, he was a chiropractor.

Q. You went to him how long after this fall?

A. That was when we returned to Long Beach, now let me see, we returned to Long Beach,—I think that rain was the 2d, 3d, 4th, and about the 5th would be right that we returned to Long Beach, and that week end I think Mr. Cordes took me back down to the ship and I stayed aboard that night and the next night, and I couldn't tell you the date.

Q. Approximately? A. It was in March.

Q. Did you tell the doctor how you hurt yourself?

A. No, I told him I had a bad back and he said, I can't [72] adjust it'', but he did adjust the fore part.

Q. You didn't tell him about the fall?

A. Sure, sure.

Q. Did you see any one after that?

A. I have \$25.00 worth of receipts from Dr. Godfrey, something like that.

Q. Where is he? A. In Long Beach.

Q. What kind of a doctor is he?

A. An M. D. I have his receipts for you, if you wish.

Q. Now along about when did you go to him?

(Testimony of Albert V. Steffen.)

A. I had about ten treatments from Dr. Settle and he said, "It is absolutely impossible for me to do anything because I can't give you the correct adjustment", so I went to this other doctor, Dr. Godfrey, and he gave me a corset with a cork in the back here, and he also treated me electrically, some electric treatments.

Q. That was about when?

A. March I think, I think that was in April, March or April, and then I went over to Pedro later on.

Q. How long were you under treatment by Dr. Godfrey?

A. Darned if I know, I couldn't tell you that, I have got about \$25.00 worth of receipts.

Q. For visits? A. Yes. [73]

Q. At least five visits? A. Yes.

Q. You paid for them yourself? A. Yes.

Q. After Dr. Godfrey what kind of treatment did you have?

A. Dr. Earl, I think I went to the Public Health then.

Q. How long after April?

A. I couldn't tell you now, about around in May, I don't know.

Q. You think some time in May?

A. It was right about that.

Q. Dr. Earl?

A. Dr. Earl treated me, yes, I was sent to him by this doctor in the Public Health.

(Testimony of Albert V. Steffen.)

Q. For what condition?

A. I had a bad sinus, we were using paint on the ship before that.

Q. Aren't you confused in your dates, the Public Health Service record contains an entry dated San Pedro, that about April 17, 1936, you called at the Public Health Service and were sent to H. D. Earl and were given four treatments by him, the original complaint was headache, irritable throat, constant drainage from the back of the throat.

A. Yes, I am in error there.

Q. That was two years before? [74]

A. Yes.

Q. Then this doctor didn't send you there?

A. No, the next time I went to the Public Health Service I was sent up here.

Q. So there was no visit to the Public Health between the time of your fall and the time you were sent up here?

A. No, Mr. Cordes sent me over to the Public Health Service.

Q. Did you go to any osteopath?

A. Mr. Cordes said that brother John had lumbago, and they were over at the yard and they sent for me to come over, and they said that this osteopath had done marvelous work, and I told him it was only the bad fall that I had, so they were going to send me over to some other doctor down in town.

Q. Did you go?

A. No, but they were going to send me over.

(Testimony of Albert V. Steffen.)

Q. In your testimony, page fifteen, you stated that you went to a chiropractor and went to an osteopath and then you went to Dr. Carroll, was there a Dr. Carroll who treated you?

A. The only Dr. Carroll that I knew, I saw him in,—yes I did.

Q. Who is Dr. Carroll?

A. He is an osteopath, a chiropractor and M. D. if you can believe that.

Q. Where is his office? [75]

A. Kress Building.

Q. Long Beach? A. Yes.

Q. When did you go to him?

A. I couldn't tell you.

Q. Did you go to him after this fall?

A. Yes and for this back.

Q. Was that between the time of your fall and the time you entered the Marine Hospital?

A. Yes, but I can't give you the exact date.

Q. How many times?

A. Just the one time because he, himself, said that I should go to a hospital, that my back was too bad for adjustment, he would not even treat me, I think he did give me a sacroiliac adjustment on the table.

Q. You are sure it was just the one time?

A. Sure.

Q. Isn't it a fact that you had been seeing Dr. Carroll since 1931?

A. No, I should say not, the only time I remember——

(Testimony of Albert V. Steffen.)

Q. How did you remember the building he was in? A. Because I was up there.

Q. You were only there the one time?

A. Sure, absolutely.

Report of Dr. C. C. Carroll of Long Beach, California, [76] dated March 17, 1941, received in evidence as Exhibit "A" of this date, copy being furnished claimant.

Mr. Pillsbury: Q. How long have you known Dr. Carroll, Mr. Steffen?

A. I have known him for about fifteen years.

Q. He states he has treated you perhaps twenty times, going back to possibly 1931, is that correct?

A. That is absolutely incorrect, your Honor, Dr. Carroll cannot make statements like that, he really cannot because I didn't pay him for the one treatment that he gave me.

Mr. Jacobson: Q. Mr. Steffen, how long have you been troubled with the back disability?

A. I didn't have any back disability, I mean, I have never had any back aches I might say until I had this fall, because I used to play baseball, I was a pitcher in the yard there, on the team.

Q. Did you ever seek medical treatment for your back prior to 1938? A. No.

Q. Never was hospitalized for it? A. No.

Q. You were involved in a rather serious automobile accident several years ago, prior to this accident?

A. I had an automobile accident where I broke

(Testimony of Albert V. Steffen.)

my nose and got a black eye and lost some teeth. [77]

Q. But not your back? A. No.

Q. Never had any trouble with your back in Minnesota? A. No.

Q. How long have you been troubled with your knees or legs swelling up?

A. I haven't had any legs swelling up, no.

Q. Before or after this accident?

A. Never had swollen legs.

Q. Never sought any treatment for that?

A. For swollen legs, never.

Q. Now did you ever write to your employer or communicate with Mr. Cordes following this accident, concerning this fall? A. Yes.

Q. Did you ever receive any replies?

A. I had a letter, personal letters from Fred ever since I was in here and he has called on me here.

Q. In connection with your injury?

A. Certainly.

Q. Have you got the letters?

A. No. You asked me if I ever asked or talked to him about it, certainly I have, and he sent several letters, because we were good friends.

Q. You have known him several years?

A. Yes. [78]

Q. Going back how far?

A. I should say 1930, roughly, 1932.

Q. Did you ever receive any communication from any one else connected with the Hillcone

(Testimony of Albert V. Steffen.)

Steamship Company or the Santa Cruz Oil Company following your injury, in connection with your injury, discussing it in any way? A. No.

Q. When was the last time that you had heard from Mr. Cordes in discussing your injury with you?

A. Just before he got married, I don't know what date it is, but I have a letter telling me just when he got married, and he was going to come back and I met his wife outside here and she asked me, "How is your back?" and he told me not to worry about it, that he was going to take care of it.

Q. How long ago was that?

A. Last year—when did he get married now, let's see, I think he got married in October or November.

Q. Of last year, 1940? A. Yes, 1940.

Q. Now you entered this hospital about August, 1938, did you not, or thereabouts?

A. I don't know, I think that is all right.

Q. At any rate you reported to the Public Health Service in San Pedro about that time and you were referred directly from there to here? [79]

A. That is right.

Q. Have you received any wages or compensation or indemnity from that time to the present?

A. Yes, there was two checks, I think I have one here for August, I think I have one, I gave you the last time, it was for July, I think that is August (hands slip to Mr. Jacobson).

(Testimony of Albert V. Steffen.)

Q. For August 16th to 31st, no year on it, you say this is for 1938?

A. Yes, I had two and I think in my last hearing when I testified, I think you will find the other one was for July and one was August.

Q. Now, as a matter of fact, at the time you made entry at the Public Health Service at San Pedro and up here, you were destitute as far as finances was concerned, you needed funds?

A. This was my job, that is all.

Q. That was your last check? A. Yes.

Q. Have you received anything else from that time on?

A. No, nothing, but Mr. Cordes came up now and then and gave me a little money on the side.

Q. That was a personal gratuity?

A. I assumed that it was with the understanding that I would get out and be back on the job again.

Q. Now you worked for the Company until what time, when was the last date of your employment on the "Prentiss"? [80]

A. When I left, that is when I came up here.

Q. Then you actually did work as a watchman on that vessel until about the time of your departure for San Francisco?

A. That is right.

Q. Therefore that salary check that you showed us covered the extent of your employment there?

A. Well, it could be, but I was in here, I think

(Testimony of Albert V. Steffen.)

the latter part of July, isn't it, and this covers August.

Q. Now have you anything in writing that would show that Mr. Cordes represented that your claim would be taken care of by the Company or the insurance company? A. No.

Q. Have you anything in writing that would show that Mr. Cordes acknowledged that you had told him about the fall out there at work?

A. No.

Q. I think that is all, Mr. Pillsbury.

Mr. Pillsbury: Have you any further documentary evidence?

Mr. Jacobson: No, I understand Mr. Purvis requested to have Mr. Steffen examined by a doctor, and it would be quite satisfactory to us to appoint a doctor, at our expense, it would be satisfactory.

Mr. Pillsbury: I have already the report from the United States Marine Hospital of San Francisco through Dr. Bilafer's testimony as attending physician, he is a government doctor. [81] Do you wish to have me appoint some outside specialist?

Mr. Jacobson: We think the record is deficient in that respect and because we have nothing to contradict what has been offered.

Mr. Pillsbury: You spoke of an automobile accident in Minnesota, have you any record of that?

Mr. Jacobson: No, an automobile accident, not necessarily in Minnesota.

Q. Where was the automobile accident?

A. I had an automobile accident in Bakersfield.

(Testimony of Albert V. Steffen.)

Q. How long ago was that?

A. Darned if I know.

Q. Was that within your acquaintance with Mr. Cordes?

A. No.

Q. Did you ever tell him about it?

A. I think I told him about it.

Q. Did you ever discuss any ailments or conditions that you had with Mr. Cordes that you attributed to that accident?

A. No, I never had any aches from that accident.

Q. Have you ever been in Minnesota?

A. Well, let's see, what part?

Q. Any part of the State.

A. I was born and raised there.

Q. Did you ever seek any treatment there?

A. You are going way back in history now, I haven't been [82] home for twelve years now, it is more than that.

Mr. Pillsbury: We are only concerned with your back now, primarily.

A. I never had any trouble with my back before.

Mr. Pillsbury to Mr. Jacobson: Have you any communications from Mr. Steffen to Mr. Cordes, or Mr. Cordes to Mr. Steffen?

Mr. Jacobson: There is nothing here, no communications whatsoever, I think our file starts with a letter that somebody in the company received from Mr. Hallinan or Mr. Burns, and they communicated with Mr. Burns and he wrote back.

(Testimony of Albert V. Steffen.)

Mr. Pillsbury: I think I will avail myself of the privilege given by the Longshoremen's Act of making an investigation and enter the case personally. This is because of claimant being in San Francisco and unable to develop anything personally in Southern California, and I may call on two or three of the doctors mentioned, and at the shipyard. Such information as I obtain will be written in the form of notes and added to the record, copy being sent to each side at the time.

Claimant states that he will write to a friend who will get his papers at a shack in the Craig shipyard and send them to him here. In that case, Mr. Steffen, you may write me a letter as soon as you get your papers, giving me any further information you find there, names of doctors, dates, and so on.

The hearing will remain open until I can look into the [83] matter personally at Long Beach on my next trip to Southern California. In the meantime each side will send me any further documentary evidence they obtain for filing, with a copy to the other side. If no request is received for further hearing or proceedings within five days after service to the parties of copy of such notes as I may develop and place in the file, I will assume that the matter is submitted for decision without further notice to the parties.

I hereby certify that the foregoing is a correct transcript of the testimony and proceedings taken in the above case at the hearing held on April 17, 1941, at 2 P. M.

MILDRED McCOLGAN

Reporter. [84]

EXHIBIT A

4/17/41

Long Beach, California

March 17, 1941

Mr. Warren H. Pillsbury
Deputy Commissioner
13th Compensation District

Dear Sir:

I will state I have known Albert Steffen for the past approximately ten years. During that time I have treated him possibly twenty times the first time dating back to possibly 1931.

He has never given me any history of being injured or of any accident being the cause of the condition for which I was treating him at any time.

The first few times I saw him he complained of aches and stiffness and soreness in his feet, which I diagnosed as arthritis.

He did not improve so well and in time one leg began to swell and both knees. From the first time I saw him he complained of pains in his back.

I did not know what was causing his trouble and told him it was an arthritic condition. He did not

say anything to me about his work causing his trouble.

It has at least been three years since I have seen him.

He stopped treatments with me without any consent on my part and I believe the manipulations were doing him some good towards the last.

I don't recall him giving me any history of his having this trouble for any period prior to my first seeing him approximately ten years ago.

His only trouble seemed to be in his feet, legs and back and he made no complaint of any trouble in any other part of his body.

I have kept no written record of Mr. Steffen's visits or treatments and this statement is to the best of my memory and I have read this report and it is true and correct.

Yours very truly,

C. C. CARROLL, D. O. [85]

Copy forwarded to Washington.

Received Apr. 19, 1941, District No. 13.

Filed April 19, 1941. [86]

[Title of Commission and Cause.]

COMPENSATION ORDER REJECTION
OF CLAIM

Case No. 2739-1

Claim No. 1545

Such investigation in respect to the above entitled claim having been made as is considered necessary and a hearing having been duly held in conformity with law, the Deputy Commissioner makes the following:

FINDINGS OF FACT

That during the month of February, 1937 the claimant above named was in the employ of the employer above named, Santa Cruz Oil Company, at Long Beach, in the State of California, in the 13th Compensation District, established under the provisions of the Longshoremen's and Harbor Workers' Compensation Act, and that the liability of the employer for compensation under said Act was insured by the Associated Indemnity Corporation;

That claimant contends that about said time he sustained injuries to his back by the slipping of a ladder extending from a pontoon to said ship, while he was leaving said ship in the course of his work;

That at said time claimant was employed as a watchman or caretaker on board the S. S. "Pren-tiss" and had been so employed for more than two years. That said vessel did not go to sea or engage in commerce or navigation at any [87] time during

said period. That there was no crew on board during said time. That said vessel had been purchased by the employer with the intention of reconditioning and remodeling her for service in connection with certain fish reduction plants but that the employer eventually sold said vessel without putting her into use in such or any capacity as a vessel. That at the time of said injury said vessel was indefinitely laid up. That claimant's employment as said watchman and caretaker was not maritime in character.

Upon the foregoing facts it is ordered by the Deputy Commissioner that the claim be and it is hereby Rejected for the following reasons:

That claimant's service at the time of his alleged injury was not maritime in character, and claimant does not come within the provisions of the Longshoremen's and Harbor Workers' Compensation Act.

Given under my hand at San Francisco, California this 22nd day of August, 1941.

WARREN H. PILLSBURY,

Deputy Commissioner

WHP:P

13th District

PROOF OF SERVICE

I hereby certify that a copy of the Compensation Order, Rejection of Claim, was sent by registered mail to the claimant, the employer, and the insurance company as follows:

Mr. Albert V. Steffen, c/o U. S. Marine Hospital, San Francisco, California;

Hillcone Steamship Co., 311 California Street,
San Francisco, California;

Associated Indemnity Corporation, 332 Pine St.,
San Francisco, California;

and by regular mail to:

Emmett Buris, Attorney, 369 Pine St., San
Francisco, California.

USECC

Mailed.....

Deputy Commissioner

Received Aug. 23, 1941, 11 a. m. Registered Mail.

[Endorsed]: Filed Mar. 31, 1942. [88]

At a stated term, to-wit: The February Term,
A. D. 1942, of the District Court of the United
States of America, within and for the Central
Division of the Southern District of California,
held at the Court Room thereof, in the City of Los
Angeles on Wednesday the 10th day of June in the
year of our Lord one thousand nine hundred and
forty-two.

Present: The Honorable Harry A. Hollzer, District
Judge.

No. 1790-H Adm.

ALBERT V. STEFFEN,

Libelant,

vs.

HILLCONE STEAMSHIP CO., a corp., et al.,
Respondents.

This cause coming on for argument and submission (to be heard on record); A. A. Goldstone, Esq., appearing as proctor for the libelant; Cyril S. Tipton, Esq., appearing as proctor for Hillcone Steamship Co., a Corp.; and H. V. Calverley, Assistant U. S. Attorney, appearing as proctor for Warren A. Pillsbury, etc.:

Attorney Goldstone argues in behalf of the libelant; the Court reads portions of various authorities; Attorney Goldstone makes a further statement; and Attorney Tipton makes a statement.

It is ordered that the cause stand submitted. [89]

At a stated term, to-wit: The February Term, A. D. 1942, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 19th day of August in the year of our Lord one thousand nine hundred and forty-two.

Present: The Honorable Harry A. Hollzer, District Judge.

[Title of Cause.]

This cause having heretofore been heard by the Court on evidence both oral and documentary, and counsel having argued the cause, and the Court being duly advised as to the facts and the law, now hands down its written memorandum of conclusions and orders that proctors for libelant submit a Decree in conformity therewith. [90]

[Title of District Court and Cause.]

MEMORANDUM OF CONCLUSIONS,
JUDGE HOLLZER, AUGUST 19, 1942

It appearing that at all times involved herein libelant was employed by respondent Santa Cruz Oil Company as a watchman on the S. S. Prentiss; and

It further appearing that said vessel had been purchased by said respondent about the spring of 1937 for the purpose of fitting the same out as a supply ship to other vessels in connection with fish reduction plants operating off the *Ferralone* Islands in the Pacific Ocean; and

It further appearing that throughout the entire period said vessel was owned by said respondent, the same was moored at Long Beach and was afloat in waters of the Pacific Ocean, that from time to time on various occasions during said period work was performed on said vessel for the purpose of fitting the same out as such supply ship, that at no

time during said period was said vessel navigated, nor was any crew on board the same; and

It further appearing that while said vessel was moored at Long Beach for the purpose of being refitted as aforementioned, to-wit in February, 1937, libelant sustained certain injuries while engaged in the performance of duties as such watchman, as he was proceeding from said vessel onto an adjoining pontoon; and [91]

It further appearing that at no time involved herein was said vessel permanently withdrawn from navigation, that said respondent continued to own and to retain the possession and control of said vessel until the fall of 1939, when the same was sold and thereafter scrapped, that up until said vessel was sold it was the intention of said respondent to refit the same as a supply ship as aforementioned and to return it to navigation, and that at no time prior to 1939 was said vessel withdrawn from registry;

The Court Concludes that at the time libelant sustained injuries as aforementioned his service or employment was maritime in character.

The Court Further Concludes that at the time of sustaining said injuries libelant was engaged in maritime employment upon navigable waters of the United States.

The Court Further Concludes that at the time of sustaining said injuries libelant was in the employ of respondent Santa Cruz Oil Company, and that recovery for such disability through Work-

men's Compensation proceedings may not validly be provided by state law.

The Court Further Concludes that libelant is entitled to relief under the Longshoremen's and Harbor Workers' Compensation Act.

See 33 U.S.C. sec. 901 et seq; *South Chicago Co. v. Bassett*, 309 U. S. 251; *Puget Sound N. Co. v. Marshall*, 31 F. Supp. 903; *Richards v. Monahan*, 17 F. Supp. 252; *Merchants & M. T. Co. v. Norton*, 32 Fed. (2) 513; *Union Oil Co. v. Pillsbury*, 63 Fed. (2) 925; *Crowell v. Benson*, 285 U. S. 22; *Seneca etc. Corp. v. McManigal*, 65 Fed. (2) 779; *Carumbo v. Cape etc. Co.*, 123 Fed. (2) 991.

[Endorsed]: Filed Aug. 19, 1942. [92]

[Title of District Court and Cause.]

OBJECTIONS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW

To the Honorable Harry A. Hollzer, Judge of the United States District Court, Southern District of California, Central Division:

Comes Now Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and object to the Findings of Fact and Conclusions of Law submitted herein in the following respects and for the following reasons:

Said Respondents object to paragraph four of the Findings of Fact, lines 18 to 22, inclusive, on

Page 2, upon the ground that said finding is outside of the issues as submitted herein.

The finding of the United States Employees Compensation Commissioner was to the effect that said libelant was not engaged in a maritime occupation at the time of his alleged injury, and this is the sole issue that was presented by this petitioner, and the issue as to whether or not said applicant sustained an industrial injury is an issue which should properly be determined by the Commissioner after the taking of further evidence.

Wherefore these respondents respectfully submit that paragraph four of the Findings of Fact should be eliminated.

Dated: September 21, 1942.

Respectfully submitted,

SYRIL S. TIPTON

Attorney for Petitioning Respondents.

[Endorsed]: Filed Nov. 9, 1942. [93]

[Title of District Court and Cause.]

REPLY TO OBJECTIONS TO FINDINGS OF
FACT AND CONCLUSIONS OF LAW

To the Honorable Harry A. Hollzer, Judge of the
United States District Court, Southern District
of California, Central Division:

Comes now the libelant, Albert V. Steffen, and
replies to the objections of the respondents Hillcone

Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, to the Findings of Fact and Conclusions of Law, as follows:

1. The injury to the libelant in the manner set forth in libelant's opening brief has been both explicitly and implicitly admitted and acted upon by the objecting respondents, and it was upon the fact of such injury as stated that both libelant and the objecting respondents based their briefs and arguments. (Respondents' Brief, p. 1, lines 14, 15, and 16, to end of first sentence).

At the opening of the oral argument on June 10, 1942, the court took up the existence of the employer and employee relationship and the occurrence of the injury to libelant while libelant was acting within the scope and course of his employment, and [94] both counsel for the objecting respondents and for the libelant agreed with and assented to the statement of the court that at the time of injury to the libelant, the relation of employer and employee existed and that libelant was injured while acting within the scope and course of his employment.

The objecting respondents therefore have not questioned the Findings as to the existence of the employer and employee relationship (lines 3 to 5, inclusive, p. 2, Findings of Fact and Conclusions of Law) nor have they questioned that libelant was injured while acting within the scope and course of his employment as stated by the court, but they do

attempt to call into question whether or not libelant sustained "an industrial injury." (Objections to Findings of Fact and Conclusions of Law, p. 1, lines 26 to 28).

2. There being no dispute between the parties to this proceeding that (a) the libelant was injured by a fall from a ladder attached to the S. S. Prentiss as set forth in libelant's opening brief; (b) that at the time of his injury the libelant was employed as a watchman on the S. S. Prentiss by the respondents Hillcone Steamship Company and Santa Cruz Oil Company, or one of them; (c) that at the time of his injury the libelant was acting within the scope and course of his employment; (d) and that at the time of libelant's said injury the S. S. Prentiss was moored in the waters of the Pacific adjacent to Long Beach, California, it was stipulated and agreed by and between the objecting respondents and libelant, through their respective counsel, that the liability of the objecting respondents be determined upon the single disputed issue, that is, whether or not the service or employment of the libelant as a watchman on the Steamship Prentiss at the time of his injury was maritime in character

The character of the injury to libelant, that is, whether "industrial", meaning whether or not the injury was compensable [95] under the Longshoremen's and Harbor Workers' Compensation Act, was necessarily and actually embraced within the question of whether libelant's employment at the time of his injury was maritime in character.

Since both the question of the libelant's injury and the sustaining of the injury by the libelant and the manner of sustaining it were properly before the court and were not disputed, and since the objecting respondents agreed to submit the question of their liability under the Longshoremen's and Harbor Workers' Compensation Act for compensation to libelant upon the single issue of whether the employment of the libelant at the time of his injury was maritime in character, the objection to the Findings of Fact and Conclusions of Law made by the objecting respondents is not well taken and is not a proper or valid objection.

Wherefore, it is submitted that paragraph four of the Findings of Fact is a proper finding within the issues and before the court in this proceeding and should remain.

Dated: October 20, 1942.

Respectfully submitted,

WM. P. LORD and

FONTANA & GOLDSTONE

Attorneys for Libelant.

[Endorsed]: Filed Nov. 9, 1942. [96]

[Title of District Court and Cause.]

OBJECTIONS TO THE PROPOSED DECREE

To the Honorable Harry A. Hollzer, Judge of the
United States District Court, Southern Dis-
trict of California, Central Division:

Comes Now Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and object to the proposed Decree submitted herein in the following respects and for the following reasons:

That paragraph two of said Decree, being that portion of said Decree beginning at line 4, to and including line 10 on Page 2, should be amended to read as follows:

“That this cause be remanded to the Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission for the purpose of determining the rights of said libelant against the Respondents, and each of them, under the Longshoreman's and Harbor Workers' Compensation Act.”

Said paragraph should be so amended for the reason that the sole issues submitted in this proceedings was whether or not the libelant was at the time of the alleged injury engaged in a maritime employment, and whether or not the Deputy Commissioner of the U. S. Employees Compensation Commission had jurisdiction of said cause. [97]

Wherefore, your respondents respectfully submit that said Decree should be amended as above set out.

Respectfully Submitted,

SYRIL S. TIPTON

[Endorsed]: Filed Nov. 9, 1942. [98]

[Title of District Court and Cause.]

REPLY TO OBJECTIONS TO THE
PROPOSED DECREE

To the Honorable Harry A. Hollzer, Judge of the
United States District Court, Southern District of California, Central Division:

Comes now the libelant, Albert V. Steffen, and replies to the objections of the respondent, Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, to the proposed decree, as follows:

The objecting respondents make no objection to that portion of the proposed decree on page 2, lines 2 and 3, that libelant is entitled to relief under the Longshoremen's and Harbor Workers' Compensation Act. The objecting respondents therefore admit that libelant is entitled to such relief and that the decree is proper in awarding relief by way of compensation.

The objecting respondents and the libelant, through their respective counsel, stipulated that the

liability of the objecting respondents be determined upon the single disputed issue of whether or not the service or employment of the libelant as a watchman on the S. S. Prentiss at the time of his injury was maritime in [99] character. If his employment was maritime in character, the libelant was entitled to and should have compensation under the Act. If his employment was not maritime in character at the time of his injury, he was not entitled to such compensation.

The only matter left for further determination in this proceeding is the actual amount of compensation due the libelant. The parties, through their respective counsel, having agreed to submit the case on briefs and the court having properly determined that libelant is entitled to compensation and all other matters and issues in the case except the exact amount of compensation to be paid to the libelant, it is proper for the court to provide in the decree that this cause be remanded to the Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, for the sole purpose of fixing the amount of compensation due to libelant by reason of his injury.

The amendment to the decree suggested by the objecting respondents is for the purpose of attempting to again try and determine the rights of the libelant which have already been properly tried and determined in this proceeding. The objection to the decree is therefore not a valid one and the proposed amendment to the decree is neither proper nor valid.

Wherefore it is submitted that the Decree should not be amended but should remain unchanged.

Dated: October 20, 1942.

Respectfully submitted

WM. P. LORD and
FONTANA & GOLDSTONE
Attorneys for Libelant

[Endorsed]: Filed Nov. 9, 1942. [100]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS
OF LAW

The above entitled action came on regularly to be heard on the 10th day of June, 1942, before the above entitled Court, the Honorable Harry A. Hollzer, Judge Presiding, without a jury, the libelant appearing by his attorneys, William P. Lord and Fontana & Goldstone, A. A. Goldstone of counsel, the respondents Hillcone Steamship Company, Santa Cruz Oil Company, and Associated Indemnity Corporation appearing by their attorney, Cyril S. Tipton, and the respondent Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, appearing by William Fleet Palmer, United States Attorney, and Howard V. Calverley, Assistant United States Attorney, Howard A. Calverley of counsel; the parties hereto, through their

respective counsel, having stipulated that the liability of the respondents be determined on the issue of whether or not the service or employment of the libelant, at the time he admittedly was injured, was maritime in character, and the cause having been submitted on the record as certified by said Deputy Commissioner and upon the stipulations, oral argument and briefs of counsel, [101] and the court being fully advised in the premises, now makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

I.

That at all times involved herein libelant was employed by respondent Santa Cruz Oil Company and was engaged in the performance of his duties as a watchman on the S. S. Prentiss.

II.

That said vessel had been purchased by said respondent about the spring of 1937 for the purpose of fitting the same out as a supply ship to other vessels in connection with fish reduction plants operating off the *Ferralone* Islands in the Pacific Ocean.

III.

That throughout the entire period that said vessel was owned by said respondent, the same was moored at Long Beach, California, and was afloat in waters of the Pacific Ocean; that from time to time on various occasions during said period work was per-

formed on said vessel for the purpose of fitting the same out as such supply ship; and that at no time during said period was said vessel navigated, nor was any crew on board the same.

IV.

That at no time involved herein was said vessel permanently withdrawn from navigation; that said respondent continued to own and to retain the possession and control of said vessel until the fall of 1939, when the same was sold and thereafter scrapped; that up until said vessel was sold it was the intention of said respondent to refit the [102] same as a supply ship, as afore-mentioned, and to return it to navigation, and that at no time prior to 1939 was said vessel withdrawn from registry.

CONCLUSIONS OF LAW

And as Conclusions of Law from the foregoing, the court concludes that at the time libelant sustained injuries as aforementioned, his service or employment was maritime in character; that at the time of sustaining said injuries libelant was engaged in maritime employment upon navigable waters of the United States; that at the time of sustaining said injuries libelant was in the employ of respondent Santa Cruz Oil Company, and engaged in the performance of the duties of such employment; that recovery for such disability through Workmen's Compensation proceedings may not validly be provided by state law; and that libelant

is entitled to relief under the Longshoremen's and Harbor Workers' Compensation Act.

Let judgment be entered accordingly.

Dated November 9, 1942.

H. A. HOLLZER

U. S. District Judge

[Endorsed]: Filed Nov. 9, 1942. [103]

In the United States District Court, Southern District of California, Central Division.

No. 1790-H

ALBERT V. STEFFEN,

Libelant

vs.

HILLCONE STEAMSHIP COMPANY, a corporation; SANTA CRUZ OIL COMPANY, a corporation, et al.

DECREE

The above entitled action came on regularly to be heard on the 10th day of June, 1942, before the above entitled Court, the Honorable Harry A. Hollzer, Judge Presiding, without a jury, the libelant appearing by his attorneys, William P. Lord and Fontana & Goldstone, A. A. Goldstone of counsel, the respondents Hillcone Steamship Company, Santa Cruz Oil Company, and Associated In-

demnity Corporation appearing by their attorney, Cyril S. Tipson and the respondent Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, appearing by William Fleet Palmer, United States Attorney, and Howard V. Calverley, Assistant United States Attorney, Howard A. Calverley of counsel; the parties hereto, through their respective counsel, having stipulated that the liability of the respondents be determined on the issue of whether or not the service or employment of the libelant, at the time he admittedly was injured, was maritime in character, and the cause having been submitted on the record as certified by the Deputy Commissioner and upon the stipulations, oral arguments and briefs of counsel, [104] and the court being fully advised in the premises, and having made its Findings of Fact and Conclusions of Law,

It Is Hereby Ordered, Adjudged and Decreed As Follows:

That libelant is entitled to relief under the Longshoremen's and Harbor Workers' Compensation Act.

That this cause be remanded to the Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission for the sole purposes of fixing the compensation due to libelant, Albert V. Steffen, by respondents Santa Cruz Oil Company and Associated Indemnity Corporation, and each of them, and, if necessary to take additional testimony in relation to such compensation

in order to determine the amount thereof, and to fix the compensation due attorneys for libelant for services rendered in this proceeding.

It is further ordered that libelant recover from respondents Santa Cruz Oil Company and Associated Indemnity Corporation his costs herein expended, the same to be taxed by the clerk of this court.

Dated November 9, 1942.

H. A. HOLLZER

U. S. District Judge

Judgment entered Nov. 9, 1942. Docketed Nov. 11, 1942. M. B. Book 30, Page 412.

EDMUND L. SMITH,

Clerk,

By L. WAYNE THOMAS

Deputy

[Endorsed]: Filed Nov. 9, 1942. [105]

[Title of District Court and Cause.]

PETITION FOR APPEAL

To the Honorable Harry A. Hollzer, United States District Judge for the Southern District of California, Central Division:

Your petitioners, Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them, respondents herein,

pray that they may be permitted to take an appeal from the Final Decree entered in the above entitled cause on November 10, 1942, in Minute Book 30 at Page 410, to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the Assignments of Error filed herewith, and that their said appeal be allowed and their bond for costs on appeal in the sum of Two Hundred Fifty Dollars (\$250.00), filed herewith, be approved.

Dated: January 18, 1943.

HILLCONE STEAMSHIP
COMPANY,
a corporation,
SANTA CRUZ OIL COMPANY,
a corporation,
ASSOCIATED INDEMNITY
CORPORATION,
a corporation,
Appellants
S. S. TIPTON
A. G. RITTER
Attorneys for Appellants [106]

ORDER ALLOWING APPEAL

Petition granted and appeal allowed. The amount of the cost bond on appeal is hereby fixed in the sum of Two Hundred Fifty Dollars (\$250.00).

Dated: January 18, 1943.

H. A. HOLLZER
United States District Judge

[Endorsed]: Filed Jan. 18, 1943. [107]

[Title of District Court and Cause.]

COSTS BOND ON APPEAL

Whereas, Hillcone Steamship Company, a corporation; Santa Cruz Oil Company, a corporation and Associated Indemnity Corporation, a corporation, Respondents herein, have appealed or are about to appeal from that certain final decree heretofore made and entered in the above entitled cause on November 10, 1942 in Minute Book 30, Page 410, and

Whereas, Pacific Indemnity Company, a corporation organized and existing under and by virtue of the laws of the State of California and authorized to do a general surety business in the State of California is held and firmly bound unto the Libellant herein and unto Whom it May Concern in the sum of Two Hundred Fifty & No/100 Dollars (\$250.00) for the payment of which well and truly to be made it does hereby bind itself, its successors and assigns firmly by these presents and agrees that in case of default or contumacy on the part of the said Appellants or of the undersigned, execution may issue against it, its goods, chattels and lands;

Now, Therefore, the condition of this obligation is such that if the above named Appellants shall prosecute said appeal with effect and pay all costs which may be awarded against them as such appellants, if the appeal is sustained, then this obliga-

tion shall be void, otherwise the same shall be and remain in full force and effect.

Dated at Los Angeles, California, this 15th day of January, 1943.

The Premium charged for this Bond is \$10.00 per annum.

PACIFIC INDEMNITY COM-
PANY,
By W. E. BENING,
Attorney-in-Fact.

Examined and recommended for approval as provided in Rule

S. S. TIPTON,
A. G. RITTER,
Attorney.

I hereby approve the foregoing bond dated the 18 day of January, 1943.

H. A. HOLLZER,
Judge.

State of California,
County of Los Angeles—ss.

On this 15th day of January in the year one thousand nine hundred and forty-three before me, Atala M. Carter, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared W. C. Bening known to me to be the duly authorized Attorney-in-Fact of Pacific Indemnity Company, and the same person whose name is subscribed to the within instrument as the Attorney-in-Fact of said Company, and

the said W. C. Bening acknowledged to me that he subscribed the name of Pacific Indemnity Company, thereto as surety and his own name as Attorney-in-Fact.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

(Seal) ATALA M. CARTER,
Notary Public in and for Los Angeles County, State
of California.

My commission Expires May 28, 1946. [108]

[Endorsed]: Filed Jan. 18, 1943.

[Title of District Court and Cause.]

DESIGNATION OF PARTS OF APOSTLES ON APPEAL AND PRAECIPE

Now come appellants, Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them, and designate the following parts of apostles on appeal in said matter.

1. Libel in personam.

2. Answer of Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them.

3. Answer of respondent, Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission.

4. Certified copy of record of Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, filed March 31, 1942.

5. Copy of Minute Order of Court of April 14, 1942.

6. Copy of Minute Order of Court of May 4, 1942.

7. Copy of Minute Order of Court of June 10, 1942.

8. Memorandum of Conclusions filed August 19, 1942.

9. Copy of Minute Order of Court of August 19, 1942. [109]

10. Objections of Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, to Findings of Fact and Conclusions of Law.

11. Objections of Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, to Proposed Decree.

12. Findings of Fact and Conclusions of Law.

13. Decree.

14. Petition for Appeal.

15. Order allowing Appeal.

16. Costs Bond on Appeal.

17. Citation.

18. Designation of Parts of Apostles on Appeal and Praeceptum.

In making up the record to be transmitted to the Circuit Court of Appeals, the Clerk of the District Court will please omit all formal captions and titles, except the caption upon the libel in personam, substituting in the case of omitted caption the words "Title of Court and Cause"; that he shall omit all verifications, substituting therefor the word "verified".

It is hereby requested that the record on appeal be prepared in accordance with the foregoing demand and praecipe and certified to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated January 19, 1943.

S. S. TIPTON,

A. G. RITTER,

Proctors for Respondents.

[Endorsed]: Filed Jan. 19, 1943. [110]

[Title of District Court and Cause.]

COUNTERDESIGNATION OF RECORD ON
APPEAL AND PRAECIPE

Now comes the libelant, Albert V. Steffen, and designates the following additional parts of apostles on appeal in the above-entitled matter:

1. Libelant's Reply to Objections to the Proposed Decree.
2. Libelant's Reply to Objections to Findings of Fact and Conclusions of Law.

It is hereby requested that the record on appeal

be prepared in accordance with the foregoing demand and praecipe and certified to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated: January 22, 1943.

WM. P. LORD and
FONTANA & GOLDSTONE,
By A. A. GOLDSTONE,
Proctors for Libelant.

Received copy of within Counterdesignation of Record on Appeal this ____ day of January, 1942.

WILLIAM FLEET PALMER,
United States Attorney, and
HOWARD V. CALVERLEY,
Asst. U. S. Atty.

[Endorsed]: Filed Jan. 22, 1943. [111]

[Title of District Court and Cause.]

ASSIGNMENTS OF ERROR OF HILLCONE STEAMSHIP COMPANY, a corporation, SANTA CRUZ OIL COMPANY, a corporation, and ASSOCIATED INDEMNITY COMPANY, a corporation.

Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them, appellants herein, assign the following errors in the record and proceedings in this

cause, in the decision and findings of fact and conclusions of law herein, and in the final decree of the District Court of the United States for the Southern District of California, Central Division, entered herein on November 10, 1942:

I.

The Court erred in finding that the libelant, Albert V. Steffen, was entitled to a decree herein against respondents, Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation.

II.

The Court erred in not directing that the libel of the libelant should be dismissed.

III.

The Court erred in finding that the service or employment of Albert V. Steffen, libelant, was maritime in character. [112]

IV.

The Court erred in finding that Albert V. Steffen, libelant, sustained certain injuries while engaged in the performance of his duties as a watchman on the S. S. Prentiss.

V.

The Court erred in finding that recovery for disability through Workmen's Compensation proceedings may not validly be provided by State Law.

VI.

The Court erred in finding that libelant is entitled to relief under the Longshoremen's and Harbor Workers' Compensation Act.

VII.

The Court erred in remanding said cause for the sole purpose of fixing the compensation due to libelant, Albert V. Steffen, by respondents, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them.

VIII.

The Court erred in directing that additional testimony be taken by the Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission for the sole purpose of fixing the Compensation due to libelant, Albert V. Steffen, in order to determine the amount thereof.

IX.

The Court erred in directing the U. S. Employees Compensation Commission to fix the compensation due the attorneys for libelant for services rendered in this proceeding.

X.

The Court erred in directing that libelant recover from respondents, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, his costs herein expended. [113]

XI.

The Court erred in finding that libelant sustained an injury and that at the time of sustaining his injuries libelant was engaged in maritime employment upon navigable waters of the United States.

XII.

The Court erred in finding that at the time of sustaining said injuries libelant was engaged in the performance of the duties of such employment.

XIII.

The Court erred in finding that the present disability of libelant arose from injuries received in the course of his employment.

XIV.

The Court erred in finding that the U. S. Employees Compensation Commission has jurisdiction of said cause.

XV.

The Court erred in finding, making and entering its decree against respondents, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation, and each of them.

Dated: January 18, 1943.

HILLCONE STEAMSHIP
COMPANY, a Corporation,
SANTA CRUZ OIL COMPANY,
a Corporation,

ASSOCIATED INDEMNITY
CORPORATION, a Corpora-
tion,

Appellants.

S. S. TIPTON,

A. G. RITTER,

Attorneys for Appellants.

[Endorsed]: Filed Jan. 18, 1943. [114]

In the United States Circuit Court of Appeals
For the Ninth Circuit

No. 1790-H

HILLCONE STEAMSHIP COMPANY, a corp.,
SANTA CRUZ OIL COMPANY et al.,
Appellants,

vs.

ALBERT V. STEFFEN,

Appellee.

CITATION

United States of America—ss.

To Albert V. Steffen, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 27th day of February, A. D. 1943, pursuant to an order allowing appeal filed on Jan. 18, 1943, in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain cause No. 1790-H, Central

Division, wherein Hillcone Steamship, a Corporation, Santa Cruz Oil Company, a Corporation, and Associated Indemnity Corporation, a Corporation, is/are appellants and you are appellee to show cause, if any there be, why the decree, order or judgment in the said appeal mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the Honorable H. A. Hollzer, United States District Judge for the Southern District of California, this 18th day of January, A. D. 1943, and of the Independence of the United States, the one hundred and sixty-sixth.

H. A. HOLLZER,

United States District Judge
for the Southern District of
California.

Receipt of copy of petition for appeal, assgts of error & order allowing appeal & Service of a copy of the foregoing Citation is acknowledged this 18th day of January.

WM. P. LORD and
FONTANA & GOLDSTONE,

By (Illegible)

Attorney for Appellee.

LEO V. SILVERSTEIN,

U. S. Atty.

HOWARD V. CALVERLEY,

Asst. U. S. Atty.

Attorney for Warren A. Pillsbury, etc., Respondent.

[Endorsed]: Filed Jan. 19, 1943.

In the District Court of the United States, Southern District of California, Central Division

No. 1790-H-Adm.

ALBERT V. STEFFEN,

Libelant,

vs.

HILLCONE STEAMSHIP COMPANY, a corporation, SANTA CRUZ OIL COMPANY, a corporation, ASSOCIATED INDEMNITY CORPORATION, a corporation, and WARREN A. PILLSBURY, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission,

Respondents.

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 114 inclusive contain full, true and correct copies of: Libel in Personam; Answer to Libel in Personam; Answer of Respondent Warren A. Pillsbury, Deputy Commissioner, United States Employees' Compensation Commission to Libel in personam; Minute Order Entered April 14, 1942; Minute Order Entered May 4, 1942; Certified Copy of Record of Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District,

U. S. Employees Compensation Commission; Minute Order Entered June 10, 1942; Minute Order Entered August 19, 1942; Memorandum of Conclusions; Objections to Findings of Fact and Conclusions of Law; Reply to Objections to Findings of Fact and Conclusions of Law; Objections to the Proposed Decree; Reply to Objections to the Proposed Decree; Findings of Fact and Conclusions of Law; Decree; Petition for Appeal and Order Allowing Appeal; Costs Bond on Appeal; Designation of Parts of Apostles on Appeal and Praecipe; Counterdesignation of Record on Appeal and Praecipe and Assignments of Error which, together with original Citation annexed hereto, constitute the apostles on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the fees of the clerk for comparing, correcting and certifying the foregoing record amount to \$27.60 and that said amount has been paid to me by Appellants.

Witness my hand and the seal of the said District Court this 4 day of February, A. D. 1943.

(Seal)

EDMUND L. SMITH,

Clerk.

By THEODORE HOCKE,

Deputy Clerk.

[Endorsed]: No. 10361. United States Circuit Court of Appeals for the Ninth Circuit. Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation and Associated Indemnity Corporation, a corporation, Appellants, vs. Albert V. Steffen, Appellee. Apostles on Appeal Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed February 6, 1943.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals for
the Ninth Circuit

No. 10361

HILLCONE STEAMSHIP COMPANY, a corporation;
SANTA CRUZ OIL COMPANY, a corporation; et al.,

Appellants,

vs.

ALBERT V. STEFFEN,

Appellee.

APPELLANTS STATEMENT OF POINTS AND
DESIGNATION OF PARTS OF RECORD

The following is a statement of the points upon which the appellants intend to rely upon their appeal herein:

1. The libelant was not engaged in a maritime employment.

2. Since the employment of libelant was not maritime in character the U. S. Employees Compensation Commission has no authority nor jurisdiction to grant libelant relief.

3. The power of the District Court was limited to the determination of whether or not the occupation of libelant was maritime in character.

4. That the Commissioner did not find that libelant had been injured or that his alleged or claimed injuries were received in the course of his employment.

5. That since the Commissioner made no finding as to whether libelant had been injured or whether his alleged or claimed injuries were sustained in the course of his employment the Court erred in directing that a hearing be had by the Commissioner on the sole issue of finding the amount of compensation due libelant.

6. That if said employment of libelant shall be held to be maritime in character it is the duty of the Commission and not of the District Court to determine the fact of injury and whether or not such injury was incurred in the course of the employment.

7. That the finding of the Commissioner that the employment of libelant and his occupation were not maritime in character, was supported by the evidence before him and was correct.

8. That the District Court erred in directing that attorneys fees be allowed to attorneys for libelant.

9. That the District Court erred in holding that the employment or occupation of libelant was maritime in character.

The Appellants hereby designate the following parts of the record which they think necessary for a consideration of the foregoing points:

Name of Document:

1. Libel in personam.
2. Answer of Hillcone Steamship Company, a corporation; Santa Cruz Oil Company, a corporation; and Associated Indemnity Corporation, a corporation; and each of them.
3. Answer of Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission.
4. Certified copy of record of Warren A. Pillsbury, Deputy Commissioner, 13th Compensation District, U. S. Employees Compensation Commission, filed March 31, 1942.
5. Copy of minute order of Court of April 14, 1942.
6. Copy of minute order of Court of May 4, 1942.
7. Copy of minute order of Court of June 10, 1942.
8. Memorandum of Conclusions filed August 19, 1942.
10. Objections of Hillcone Steamship Co. etc. et al to Findings of Fact and Conclusions of Law.
11. Objections of Hillcone Steamship Company etc. et al to proposed Decree.
12. Findings of Fact and Conclusions of Law.

13. Decree.

14. Petition for Appeal.

15. Order allowing Appeal.

16. Costs Bond on Appeal.

17. Citation.

18. Assignments of Error of Hillcone Steamship Company, a corporation, Santa Cruz Oil Company, a corporation, and Associated Indemnity Corporation, a corporation.

19. Designation of Parts of Apostles on Appeal and Praecipe.

20. Appellants Statement of Points and Designations of Parts of Record.

Dated: February 1, 1943.

S. S. TIPTON &

A. G. RITTER,

Proctors for Appellants, Hillcone Steamship Company, a corporation; Santa Cruz Oil Company, a corporation; and Associated Indemnity Corporation, a corporation.

Received copy of the within instrument this 1st day of February, 1943.

FONTANA & GOLDSTONE &

WM. P. LORD.

By A. A. GOLDSTONE,

By JUNE L. TROXEL,

Attorneys for Appellee.

Received copy of the within this 1 day of Feb., 1943.

(Illegible)

Asst. U. S. Atty.

[Endorsed] Filed Feb. 6, 1943. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

APPELLEE'S COUNTERDESIGNATION
OF PARTS OF RECORD

The Appellee hereby designates the following additional parts of the record which he thinks necessary for consideration of the points on appeal herein:

1. Appellee's (Libelant's) Reply to Objections to the Proposed Decree.
2. Appellee's (Libelant's) Reply to Objections to Findings of Fact and Conclusions of Law.
3. Appellee's Counterdesignation of Record on Appeal and Praecipe.

Dated: February 8, 1943.

WM. P. LORD and
FONTANA & GOLDSTONE
By A. A. GOLDSTONE
Proctors for Appellee.

Received copy of the within Appellee's Counter-designation of Parts of Record this ---- day of February, 1943.

S. S. TIPTON and
A. G. RITTER
By S. S. TIPTON
Attorneys for Appellants

(Affidavit of Service by Mail on Warren A. Pillsbury.)

[Endorsed]: Filed Feb. 10, 1943. Paul P. O'Brien, Clerk.

